

PRESCOTT CITY COUNCIL
REGULAR MEETING
TUESDAY, DECEMBER 14, 2010
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF THE PRESCOTT CITY COUNCIL held on December 14, 2010 in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Pro Tem Lamerson called the meeting to order at 3:00 p.m. He welcomed Mayor Kuykendall back and said that he appreciated that he came back before the end of the year.

Mayor Kuykendall thanked the Council for doing a great job and said that it proved that no one was indispensable. He said that it was great to be back.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor Hylyard Irvin, Church of Nazarene

Pastor Irvin was not present. Councilman Hanna gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Linn

Councilwoman Linn led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

Mayor Kuykendall noted that there would be an Executive Session at the end of the Regular Meeting followed by a vote and response for the benefit of the media.

Present:

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

Absent:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood noted that yesterday they had a magical mark in the Library; they reached the 500,000 person mark for 2010 with another two weeks to go. In 2008 they had 425,000 people and this year they did it with 25% fewer employees. He said that the library employees did a great job. He knew that the City had received complaints about computer lines backing up and said that the library was well used.

He noted that Acker night was the biggest night that he had seen in Prescott. The previous weekend had several hotels at 95% occupancy. Mr. Prince had done a lot of direct marketing and targeting to 250 media. There were articles from Vegas to Tucson and e-mail blasts. The bed tax was up again for the third consecutive month. Scottsdale had a 10% decline last month.

Councilwoman Linn mentioned the Secret Santa Suitcase Project for the foster children in the area that would be going on until the end of the year. So far she received 60 new suitcases and duffle bags, in addition to 400 knitted caps, 200 scarves and 15 handmade quilts. She thanked everyone involved and said that they surpassed their goal.

Mayor Kuykendall thanked her for her work and said that they were proud to have her on their team.

Mayor Kuykendall noted that they would like to pull Item A from the Consent Agenda due to the amount of the award.

I. PRESENTATION

- A. Acknowledgement of Award of Excellence from the Amateur Softball Association.

Ms.Horton announced that the City of Prescott sports division was recently awarded with an American Softball Association (ASA) Award of Excellence for hosting three National Championships in 2010; each one earning a ranking of Excellence, with a score of 95 or above. Prescott was the only city in the United States that received the award.

She invited forward the key people up who were responsible: Don Fishel, Rick Horman, Mike Davidson, Steve Mancha, Tim Legler, Michelle Stacey and Sharon Mitchell. There were many others involved in the success of this, including the outstanding score keepers, umpires and grounds crew.

She thanked the Council for giving them the funds to support the program.

Because of their reputation, they found out that in 2011, they would host the 16 and under and 18 and under Class B Girls Fast Pitch Nationals. They had never hosted that. In 2012, they would host the Girls 18 and under Class A Fast Pitch Western Nationals. She noted that they were huge tournaments and that it would be a huge economic impact to the City of Prescott.

Councilman Blair said that this was a great thing to add to the long laundry list of what the City of Prescott was known for. He also noted that Don Fishel was the ASA Commissioner for Arizona.

Don Fishel noted that the City of Prescott was the City that was well respected throughout the country. They now had the Men's E Fast Pitch Nationals, next year, in Prescott instead of Tucson.

Mayor Kuykendall said that many of the activities that they saw on a daily basis were not as visible to the public. Next year they were going to try to do a better job of letting the public know what was going on in the community. A part of the overall program that looked at tourism, marketing, and economic development all tied together.

II. 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.

- A. Approval to purchase a Tymco 600 Regenerative Air Vacuum Sweeper from H&E Equipment in an amount not to exceed \$210,719.47, including tax, for use by the Field Operations and Airport Departments. (MOVED TO REGULAR AGENDA)
- B. Approval of Final Plat for the Tenney Homestead, Phase 1, comprising 5 lots on approximately 3.38 acres, generally located east of Senator Highway and west of Summer Field Road. (FP10-003).
- C. Adoption of Ordinance No. 4774-1125 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a small portion of an unimproved alley right-of-way located adjacent to and at the rear of 817 Country Club Drive, retaining a public utility easement over the abandoned alley right-of-way and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment.

- D. Approval of the minutes of the Prescott City Council Regular Meeting of November 23, 2010, the Special Meeting (Executive Session) of November 24, 2010, and the Special Meeting (Executive Session) of November 30, 2010.

COUNCILMAN LAMERSON MOVED TO APPROVE CONSENT AGENDA ITEMS II-B THROUGH II-D; SECONDED BY COUNCILWOMAN SUTTLES; PASSES UNANIMOUSLY.

- A. Approval to purchase a Tymco 600 Regenerative Air Vacuum Sweeper from H&E Equipment in an amount not to exceed \$210,719.47, including tax, for use by the Field Operations and Airport Departments.

Councilwoman Suttles said that she asked that it be pulled from the Consent Agenda. She asked Mr. Vardamin to give more information to the citizens and Council.

Mr. Vardamin said that the airport had looked at ways they could benefit their cost benefit to the citizens and continue to provide outstanding service. They partnered with the street division of the Field Operations Department. They and the airport each ran a mechanical sweeper, but there was newer and better technology, so they found that if each department gave up a sweeper, they could purchase the new sweeper which would suck up the dirt instead of pushing the dirt along into the hopper. He said it would lead to safer roads.

They would get a vacuum attachment on the back which would allow them to clean our storm and sewer drains. It would have a larger hopper to allow it to stay on the roadway longer. He felt that it would be a good opportunity for cost savings to the public.

Councilwoman Suttles appreciated the two departments working together to cut costs and hoped that other departments would do that.

Councilwoman Linn was impressed that both departments were working together to use the equipment that the City had.

Councilman Hanna asked how long the machine could run before it had to be emptied and what the difference was between the old and new machine. Mr. Vardamin said that he was not sure what Field Operations did, but he thought that they emptied it twice a shift. He thought the new machine could run for six hours.

Gary Sheldon, 2611 Country Park Drive, asked what they would do with the ones they had. Mr. Vardamin said that they would go to a public auction. He said that the last sweeper the City sold was in 2007 for

\$17,000 for a 12 year old unit. The units they were going to sell were less than 7 years old, and he thought that they could get around \$25,000 for each.

Councilwoman Suttles noted that the amount included extended warranties and sales tax.

COUNCILWOMAN SUTTLES MOVED TO APPROVE THE PURCHASE FOR A TYMCO 600 REGENERATIVE AIR VACUUM SWEEPER FROM H&E EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$210,719.47, INCLUDING TAX, FOR USE BY THE FIELD OPERATIONS AND AIRPORT DEPARTMENTS; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

III. REGULAR AGENDA

A. Voucher Transit Program

Mr. Guice said that the staff received notification from the Arizona Department of Transportation (ADOT) about the availability of approximately \$34,983.00 of the Local Transportation Assistance Fund (LTAF II), for the calendar year 2011. The City requirement was a 25% cash match. The City had budgeted \$8,746 this fiscal year for a total of \$43,732 for the voucher program.

He showed an overhead which bulleted the key points of the Memorandum of Understanding between the City of Prescott and the Northern Arizona Council of Governments (NACOG).

Joe Kronewitter, Fiscal Officer from NACOG, noted that they were more than a pass through for the voucher program. There was an application process; they collected data, issued ID cards and made vouchers. In the calendar year 2010 through November, the average number of people receiving vouchers was 104 per month and over 10,000 rides were requested, just for Prescott residents. The greatest use was for basic needs and medical; the majority of the users were the elderly.

He said that the need was probably greater than those numbers, but, as the funds dwindled, people stop requesting services. On the 20th of each month, when they handed out the vouchers, he arrived at work at 6:30 a.m. and there were 10-15 people waiting. By 7:00 a.m., there were 40 people. He said that NACOG would like to partner with the City to help provide the voucher program.

Daniel Mattson said that he had a lot of experience with transportation needs. He thought the voucher program was a blessing. There were a lot

of people living pay check to pay check. This could be the difference between keeping their job or home. He strongly recommended that #1 be approved. From what he had heard NACOG did a good job of administering it.

Mayor Kuykendall thanked him for his comments and for what he did. He said that the City of Prescott had a great relationship with NACOG and the voucher program worked.

1. Adoption of Resolution No. 4059-1129 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the application and acceptance of a grant for Local Transportation Assistance Funds (LTAF II) to assist in the continued funding of the Transit Voucher System Program.

COUNCILWOMAN LINN MOVED TO ADOPT RESOLUTION NO. 4059-1129 – A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE APPLICATION AND ACCEPTANCE OF A GRANT FOR LOCAL TRANSPORTATION ASSISTANCE FUNDS (LTAF II) TO ASSIST IN THE CONTINUED FUNDING OF THE TRANSIT VOUCHER SYSTEM PROGRAM; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

2. Adoption of Resolution No. 4060-1130 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Memorandum of Understanding (MOU), with the Northern Arizona Council of Governments (NACOG) - Economic Workforce Development, providing for the administration of the Voucher Transit Program for calendar year 2011, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Councilwoman Suttles made sure that item 2 covered the City in case the State decided to sweep the accounts.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 4060-1130; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- B. Approval of Water Service Agreement #10-006 with ETL Investments, LLC, for a multi-unit residential development to be located at 195 Plaza Drive.

Mr. McConnell said that this was an application for an apartment complex to be constructed at 195 Plaza Drive. This complex would be for a residential treatment program. The property was zoned as business general and was the location of the former Mining Company restaurant. The project had been reviewed through the pre-application process and complied with all City requirements. The only Council approval required was for the Water Service Agreement. The project consisted of 12 residential units in 3 buildings. Total water allocation was 3.0 acre feet per year. The City had water in the alternative water budget for this.

Councilman Hanna asked if there had been any discussion with the neighbors about what that was being used for.

Mr. Gaber said that the short answer was that there was no public notification. There were no zoning requirements for that and no community meetings.

Councilman Hanna asked if he thought it would be prudent to have them. He thought that Prescott had enough problems without moving something into a location without informing the public. Mr. Gaber said that the project did not require the public meetings.

Councilwoman Suttles asked if the buildings were going up in parking lots. Mr. Gaber said yes. She asked why they did not have a complimentary meeting with the neighbors. Mr. Gaber said that there was no requirement.

She noted that not long ago the Board of Adjustment had to deal with buildings for Prescott College. That seemed to bring a lot of interest. She was wondering why Mr. Harris could not do something.

Mr. Gaber said that the Sober Way Program had been in occupancy of the restaurant for numerous months. They changed the former signage to their signage. It had not resulted in any communication to the City.

Councilwoman Suttles noted that he had also not had three two-story buildings.

Councilman Blair said that he thought it was a good project. He thought it was a good reuse of the building. The buildings they were going to erect were in a commercial shopping center, separated by heavy vegetation and drainage.

He asked if they had plans for a full blown sidewalk down Gurley from Park to Plaza Drive. Mr. Nietupski said that there had been a project submitted and approved for funding through the Arizona Department of Transportation (ADOT). It would be in a three year cycle for the south side of Gurley from Cory to the Plaza/Josephine area.

Councilwoman Lopas said that it was a good, adaptive reuse of the property, but she wished that there were another policy because Prescott was known as the drug rehabilitation capital of the nation. The City needed another policy, and then if something just happens to fit, it can not plopp there. They needed to look at some policy changes. She was not happy with the location.

Councilman Lamerson noted that under the Federal Housing Act, there were certain things that the community could and could not do. One of them was to deny equal opportunity to live in the community.

Mr. Kidd said that what was before the Council today was the Water Service Agreement. The other issue was not before the group. He believed that the Unified Development Committee was looking at what the City could get involved with.

Councilwoman Linn said that this was an LLC and assumed that it was a for profit entity. She asked if the treatment centers paid taxes. Mr. Woodfill said that if they were for profit, they would be subject to sales and bed tax.

Councilman Hanna said that he was going to vote yes on the Water Service Agreement, but they should take a hard look at zoning. He said that he was interested in what happened to the community.

Councilman Blair had an issue about micromanaging different types of uses in a general area. They had a Department of Economic Security (DES) right there that brought in some of the people that he might not want in his house. They could not stop people from having adaptive reuse of a facility or piece of property that met the qualifications of the zoning code.

Mayor Kuykendall asked if they were looking at moving a water agreement from commercial to residential. Mr. Gaber said the agreement was specific to the 12 residential units. Mayor Kuykendall asked if a person could rent a unit without having to subscribe to the services that this organization provided as a part of the occupancy. He was trying to relate it to a motel, which would leave it commercial.

Mr. Gaber said that each of the 12 units would be a fully operational apartment. There would not be a cafeteria or kitchen facility within the main facility. The City looked at them in the same manner as any other apartment.

Mayor Kuykendal asked if they had to be a patient to live there. Mr. Gaber said yes because they were building the units to be part of their program. If the program went away years from now and the project went to typical multifamily use, from the water allocation side, there would be no change.

Mayor Kuykendall asked if it was a taxable event for the entire occupancy, inclusive of the services provided, or just that portion allocated as a motel type facility. Mr. Woodfill said that it would depend on the structure of the organization and how the fees were charged. Without having a lot of detail he could not give a specific answer.

Mayor Kuykendall said that since they had similar facilities in Prescott, he asked how are they were handling those as far as taxable events. Mr. Woodfill said he would have to look at them individually and get back to him.

Councilman Blair asked if the apartments stood alone if the property was to sell or the use went away. He asked if each complex would have enough parking to stand alone if the property were to be split. Mr. Gaber said yes.

COUNCILMAN LAMERSON MOVED TO APPROVE WATER SERVICE AGREEMENT #10-006 WITH ETL INVESTMENTS, LLC FOR A MULTI-UNIT RESIDENTIAL DEVELOPMENT TO BE LOCATED AT 195 PLAZA DRIVE; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

- C. Adoption of Resolution No. 4058-1128 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, extending the 2005-2010 Water Management Policy, adopting a Water Management Budget for Calendar Year 2011, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. McConnell said that the current Water Management Policy for 2005-2010 expired at the end of the month. It was available to the public on the City website. They anticipated, after litigation was cleared on the decision and order, which was now in court for assured water supply they will begin to formulate a replacement, long term water management policy, which would include imported resources from Big Chino sub basin, treated effluent for recharge and recovery and also providing a strategy to provide

appropriate contribution to achieving safe yield in the Prescott Active Management Area.

They had an Assured Water Supply application before the State that was in litigation. They were recommending extending the current policy. The City had an annual water management budget. In that case they were talking about alternative water, which was not groundwater that was capped by the state, but a renewable resource that consisted of effluent that was treated and recharged into the aquifer, during the winter and sometimes during monsoon season. If there was an abundance of surface water it would be diverted to their recharge basins and the City would get recharge credits for that.

For 2006-2010 there was a total of 1000 acre feet budgeted for each year. The 200 acre feet per year was then broken down into the market category and the affordable housing category. This was not anticipating development that was going to require an allocation of water.

They recommended that the City continued to budget that amount, understanding that anything not budgeted in the year was not lost.

He summarized how much water they now had. As of calendar year 2010, the City had 500 acre feet available. There was 121.85 acre feet of market and 40 acre feet of workforce. He anticipated having about 421.01 acre feet of unallocated balance. That would be the balance forward. The budget recommended for next year would be 160 acre feet and 40 acre feet.

He noted that the City operated under authorizations of the State of Arizona. They pledged resources, the state of Arizona evaluated that resources and gave them an assured water supply source. The City was operating under the 2005 designation of assured water supply. The update of that (2008) was in court.

In addition to the net available, the City had other contractual obligations that they had reserved water for. It did not reflect the other reservations: Chino Valley Irrigation District, from which the City bought the lakes, which was 535 acre feet. There were other miscellaneous agreements totaling 57 acre feet. There was also reserved water for undeveloped residentially zoned tracts in the City of Prescott of about 776 acre feet. It was a policy determination of prior City Council that they identified undeveloped, residentially-zoned property within the City and reserve water for it at the current density. They discounted the density a little because of the terrain.

Every time the City rezoned property from commercial to residential it required that they or reduce the total because that had not been reserved for rezoning of current commercial.

They also had lot splits. There may be a parent lot split into three lots. That took triple the amount of water, if it was residentially zoned in the future. So they kept track of that as well. The water management function was dynamic. There was a current stream of proposals. He said that the City was in pretty good shape going in to calendar year 2011 with about 400 acre feet.

Councilman Lamerson said that if they did not get water out of the Big Chino Water Ranch there would only be enough water of 421 acre feet, which were only about 1400 residential units. He noted that if the City did get the water they were entitled to out of the Big Chino Water Ranch, that was still somewhere around 56% of 8,000 acre feet, which was only about 4,000 acre feet – less than 15,000 residential units in the City from now until the end of time.

Councilman Lamerson noted those 7 years ago, the City had 1,000 acre feet of alternative water and that day they still had 400 acre feet of that water. They had not wasted anyone's water and they had not been abusive to the growth.

Gary Sheldon, 2611 Country Park Drive, said that he understood that there were 1000 acre feet and 40 of them went to Granite Dells. He asked how many people lived there. Mr. McConnell said that the balance forward was what they started with at the beginning of the year which was 499.16. Mr. Sheldon asked if they had 421 at that point. Mr. McConnell said yes. Mr. Sheldon asked if there was 80 acre feet being used somewhere. Mr. McConnell said that allocations were made to be used in the future.

As an example, the Water Service Agreement (WSA) was for the rehabilitation center for 12 residential units. In order for them to go forward and get financing and construction permits, they needed to have the assurance of water.

Mr. Sheldon asked how many people lived in Granite Dells. Mr. McConnell said there was a contractual agreement that when Granite Dells Estates was annexed into the City there was a Water Service Agreement that went along with it. Had there not been one there would have been no annexation. In the past the City issued open ended WSA's. The previous item on the agenda provided for five years. They would have to have a building permit within 5 years or the allocation will go away. The City is more judicially trying to manage a very limited resource.

Mayor Kuykendall invited Mr. Sheldon to come in at any time and sit down with employees that do this on a daily basis.

Mr. Sheldon said that he lived in the County so he got stiffed for more money. He asked how the rates were arrived at. Mr. McConnell said that it pertained to the next question.

Councilwoman Linn she asked if there was a restricted account of assured water for everything that was annexed into the City.

Mr. McConnell answered that some of the City's agreements pertained to annexations. If it happened between 2005 and 2010 that allocation of water would have been subtracted off of the initial 1000 acre foot block.

COUNCILWOMAN LINN MOVED TO ADOPT RESOLUTION NO. 4058-1128; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- D. Public Hearing and adoption of Ordinance No. 4773-1124 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title II, Chapter 1, of the Prescott City Code regarding the imposition of water rates, sewer rates and alternate water sources fees.

Mr. McConnell noted that the item had two parts. The first was to conduct a public hearing on the proposed rates. The second part was to consider adoption of the ordinance to implement the new rates.

He said that the item capped a year long public process. The objective was to provide sufficient financial resources to support the water and sewer enterprise funds through which core essential utility services were provided to the community.

The financial needs included extensive projects, many to remedy existing deficiencies, to comply with state requirements.

If the ordinance was adopted the rates would be adjusted on February 1, 2011, January 1, 2012 and January 1, 2013. The material available listed recommendations for six years, through 2016. He said that was too long to be adopting rates. The staff was recommending a more typical three year time frame. He then summarized the water and wastewater rates.

The proposed ordinance before the Council would amend the two sections of the City Code 2-1-18 and 2-1-21. Staff was also recommending one other amendment to the Code that would pertain to the calculation of sewer volume charges. The City would like to simplify that with the way most other cities in Arizona do it. They would base the

sewer rates year-round on the six months of lowest water usage. Sewer rates would be established for October through March.

Councilman Lamerson asked if there was a projected total for the deficiencies in their current water system and sewer structures.

Mr. McConnell answered that the 20 year estimate of capital projects for water and waste water was about \$350 million. If they wanted to see the specific projects that was in the public report.

Councilman Lamerson said that he thought that impact fees were limited to capacity of new growth. Mr. Kidd said yes, they could not be used to subsidize existing growth.

Councilman Lamerson said that if someone did not start building soon, there were still deficiencies of \$350 million and someone will have to pay to fix that. He asked where that money would come from. He said that it would just get worse unless they fixed it now. He said that they would also be limited to how the money could be spent for.

Councilwoman Suttles asked what they would be looking at for rates at the end of three years. Mr. McConnell said that rate analysis and updating was an ongoing activity. They had to do that at an interval, which was typically 2-3 years. The process took close to a year. By the time he was done, he would have to start doing it again.

With the tools they had today, they knew what their 20 year needs were. He anticipated, in order to be able to pay for those needs, they would do something like they saw in years 4, 5 and 6, but he did not know if it would be higher or lower. The challenge would be to reduce or minimize the increases through efficiencies.

Councilwoman Suttles noted that somehow the City got lost 6-12 years ago. They never looked at those rate analyses. If they needed to do that, she asked if it should have been brought to Council.

Mr. Norwood said that it was never popular to bring forward a rate increase. Part of the problem was they did not have a water or sewer model. When they have the data, like they had obtained, they have true information that was reliable. It was not cheap to get the information, but the Council voted to go ahead with it.

Councilwoman Lopas asked how the three year rate extension affected the bonding. She asked if it would be different if they did a six year extension. Mr. Woodfill said that it should not be a problem. Mr. Norwood said that they would not issue any more debt than the rate would support.

Mr. Woodfill said that the rates and debt and projects were very front loaded. There were a lot of projects needed and debt would be issued during that time.

Councilman Lamerson said that they tried to get a hold of measuring sticks, when they came to Council. He said that they now had the tools and would not borrow more money than they could support. The only way to pay back was to charge the users. They could not depend on new people coming here to fix what we need to fix.

Councilwoman Linn said that no one liked a rate increase, but because of deficiencies and state and federal regulations they needed to do this now before they were mandated by the government to do it. The price would be much cheaper to do it now.

Mr. Sheldon, 2611 Country Park Drive, said that he was on City water but not on sewer. He paid 40% extra because he lived in the County. He wanted to propose an amendment. His amendment was that no more 40% for the people that the City charged who live in the county. He asked if the 40% he paid every month was some type of extortion.

Mayor Kuykendall said that they were probably getting out of order. He said that they each had an office and would like to talk to him about the issue.

Mr. McConnell noted that the subject had been addressed a few years ago during previous rate setting process. Dan Jackson said that in analyzing the cost of serving outside the City of Prescott, the cost was disproportionate. It was farther away, the infrastructure had to be extended, and by virtue of City providing the service, the City had to replace that pipe like any other pipe. That justified a separate category of Outside the City Limits.

The second thing that Mr. Jackson mentioned was that, in the event that the Council decided to adopt a rate structure that was inadequate to meet the City requirements, if the City violated its state and federal permits and the state and feds came in and said fix it, and there was no revenues to do it, the only recourse would be property tax. In that eventuality, those customers outside the City limits would have no obligation. That was a major point. Those outside the City limits share in the benefit but not in the obligations.

Mr. Sheldon said that the City did put in a new water line. He asked if the only revenue to take care of the water and sewer problems came from the

water users. Mayor Kuykendall said that the City had to go to the Enterprise Fund.

Mr. McConnell said that the operations of the utility systems and capital projects were supported by separately accounted enterprise fund which exist solely for utility purposes.

Mr. Sheldon asked who built the baseball fields. Mayor Kuykendall said that it was a good question and people thought that money could be intermingled. The money for the fields had accumulated from impact fees that were designated when people got building permits.

Thomas Slaback, 715 East Goodwin Street, said he was there to speak in favor of increased rates that went to rebuilding or replacing the deteriorating infrastructure. He was not willing to pay one cent for any increases to increasing any capacity for hoped for future growth. Growth must pay for growth. He hoped that he would see actions that reinforced that.

Mayor Kuykendall said that he had been privileged to be there since December of 1963. He was on the Council for the first time in the early seventies. In 1973 there were about 12,000 people. Today there were about 42,000. They used to run water lines wherever they could dig. He said there were a lot of rocks to dig around and they did the same thing with sewers. They were fixing a lot of those things.

He said that when they can still pay \$1 for a bottle of water and be able to turn the faucet on and get 1,000 gallons of water for \$3, it was a good deal. The current Council was trying to be prudent with their money. They should have done increases years ago. He said that it was hard for him to increase anyone's bills, especially in these times.

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

**COUNCILMAN BLAIR MOVED TO ADOPT ORDINANCE NO. 4773-
1124; SECONDED BY COUNCILWOMAN LINN; PASSED
UNANIMOUSLY.**

- E. Award of a construction services contract to WCC, LLC to modify a thirty-four foot section of concrete retaining wall along Iron Springs Road west of Vyne Street in an amount not to exceed \$71,225.00.

Mr. Nietupski noted that the wall constructed there impeded motorists' visibility. Transystems Corporation designed the wall and paid the City \$100,000 and provided bid documents and plans for the correction of the error in their design. The project would not cost the City any out of pocket expenses. The low bid was among eight they received. The project would begin in January 2011 and completed in March 2011, in order to minimize businesses at that location. The contractor's license had been verified.

COUNCILWOMAN LOPAS MOVE TO AWARD A CONSTRUCTION SERVICES CONTRACT TO WCC, LLC TO MODIFY A THIRTY-FOUR FOOT SECTION OF CONCRETE RETAINING WALL ALONG IRON SPRINGS ROAD WEST OF VYNE STREET IN AN AMOUNT NOT TO EXCEED \$71,225.00; SECONDED BY COUNCILMAN HANNA; PASSED 6-0 WITH MAYOR KUYKENDALL NOT PRESENT.

- F. Adoption of Ordinance No. 4775-1126 – An ordinance of the Mayor and council of the City of Prescott, Yavapai County, Arizona, accepting the dedication of streets and rights-of-way from FJLE1, LLC, a Utah limited liability company, in the Enchanted Canyon Subdivision and authorizing the Mayor and City staff to take all necessary steps to effectuate such dedication.

Mayor Kuykendall returned.

Mr. Nietupski showed the map on the screen. He said that the streets were originally platted in 2007. They were private streets and were to be constructed with gated entry features. New owners acquired the project and completed the infrastructure. There was a low pressure sewer system that would be maintained by the Home Owner's Association (HOA). It has full public access. The owners feel that by having public streets, the properties would be more competitive in the market. All of the current property owners have ratified the change.

Gary Schnell, represented CFLE1, LLC and resided at 10713 North 6340 West, Highland, Utah, said that he was part of the original partnership of Enchanted Canyon. As the development went into troubles they were asked to step in and help. They took over the projects and had completed it. They did not want to see the project go away. He said that it was more of a project than they wanted and they had been struggling. The comments that they had received from prospective buyers were that their HOA fees were high. They decided that the project may not have been a great site for a private community because of the petro glyphs that were

inside. He appreciated the help from the City. They had one sale pending the approval of this action.

COUNCILMAN LAMERSON MOVED TO ADOPT ORDINANCE NO. 4775-1126; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- G. Approval of a professional services agreement with Shephard Wesnitzer, Inc. for engineering and construction support services for the Williamson Valley Road Reconstruction Project in an amount not to exceed \$64,690.00.

Mr. Nietupski said that this was required to complete some additional work. They originally contemplated that County and City would be bid at the same time. Due to the City's inability to move forward a couple of years ago, the County proceeded. They ended up making modifications to the plans to tie into the existing street at Shadow Valley Road. The City had to make some changes in their plans to accommodate the tie in. The contract includes construction phased services; attending meetings, observation and testing of water and sewer mains and being very involved in as built surveys and then certifying the project facilities for approval of operation.

He said that there were still some issues with utility relocation. The design should be done this week and begin construction after the first of the year and completed within 60 days.

Concerning the right of way acquisition, he and Mr. Lloyd would be meeting with the attorney representing the two property owners with which they do not have an agreement. They did obtain an agreement with the man who lived at corner of Shadow Valley Ranch Road and Williamson Valley Road.

Councilwoman Suttles asked if they had made the commitment that Williamson Valley would be the next project that they were going to do. Mr. Nietupski said that from a staff perspective, they had been working diligently to go ahead with the project. This project and Rosser were the two most eminent projects for street reconstruction in the coming months. He said that this was the project that was budgeted for this year, along with Rosser Street.

Councilwoman Suttles asked if Park and Senator were out. Mr. Nietupski said that Park Avenue, Senator Highway and Robinson Drive, including Mt. Vernon were in the budget for year 2012. They were working on those projects preparing them for that next round of street improvements.

COUNCILMAN LAMERSON MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH SHEPHARD WESNITZER, INC. FOR ENGINEERING AND CONSTRUCTION SUPPORT SERVICES FOR THE WILLIAMSON VALLEY ROAD RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED \$64,690.00; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- H. Approval of a professional services agreement with Dava & Associates to provide drainage engineering services for analysis, retrofit design and plan preparation for various locations within the City in an amount not to exceed \$36,600.00. (Funded by the Yavapai County Flood Control District)

Mr. Nietpski said that the next three items were interrelated and the funding for the first two projects was coming from the Yavapai County Flood Control District (YCFCD) and the funding for the last one was coming from the Federal Emergency Management Act (FEMA).

The first project involved Hornet Drive, Cactus Drive, Eagle Drive and a Willow Creek scour project. The Willow Creek scour project involved protecting some exposed utility lines in the vicinity of Reflection Drive. Scour in there had exposed those main transmission mains to the City and some sewer facilities between Lorraine Drive and Clearwater Drive. Eagle Drive needed new drainage. Cactus Drive had a culvert issue. All of the work in Yavapai Hills will be with a master plan.

COUNCILWOMAN LOPAS MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH DAVA & ASSOCIATES TO PROVIDE DRAINAGE ENGINEERING SERVICES FOR ANALYSIS RETROFIT DESIGN AND PLAN PREPARATION FOR VARIOUS LOCATIONS WITHIN THE CITY IN AN AMOUNT NOT TO EXCEED \$36,600.00; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- I. Approval of a professional services agreement with Dubroy Engineering to provide engineering services for drainage analysis, retrofit design and plan preparation for various locations within the City in an amount not to exceed \$24,440.00. (Funded by the Yavapai County Flood Control District)

Mr. Nietupski said that the project would address issues at Jovian Drive and the drainage way the crossed Whipple Drive. It would also improve the channel at Clearwater Drive near the covered bridge. They would also address an Acker Park pond improvement, which was associated with the drainage basin known as Virginia Creek. The Tenneys committed to \$120,000 toward the Acker Pond.

COUNCILWOMAN LOPAS MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH DUBROY ENGINEERING TO PROVIDE ENGINEERING SERVICES FOR DRAINAGE ANALYSIS, RETROFIT DESIGN AND PLAN PREPARATION FOR VARIOUS LOCATIONS WITHIN THE CITY IN AN AMOUNT NOT TO EXCEED \$24,440.00; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- J.* Approval of a professional services agreement with JE Fuller/Hydrology & Geomorphology, Inc. for engineering services to update the FEMA floodplain determination of ~~William~~ **Willow** Creek, Tributaries of Willow Creek, Bottleneck Wash, and the northern segment of Granite Creek in an amount not to exceed \$350,000.00. (Funded by a FEMA grant)

Mr. Nietupski noted that the Council accepted the grant for that project in October of 2010. That will be the last major watershed study they will do. There were two small components associated with Miller Creek that needed to be done.

The benefits of doing this would provide for a better understanding of where the floodplain was. He hoped that the City's community rating will be improved as a result of the efforts.

He recognized Mr. Toth for receiving his Certified Floodplain Management Certification. He had done a lot of good work for the City of Prescott and the community will benefit due to his service.

Councilwoman Suttles asked if FEMA tried to get involved with some of the owners in the floodplain as to why and how the areas were encompassed.

Mr. Nietupski said that there would be a public process involved with the determinations and FEMA will be assisting the City in that regard. When the City was in the position to update the floodplain determination and it improves the City's community ratings that would have a bearing on insurance rates. With an improved rating, insurance rates could be reduced. Right now they could not quantify what that reduction would be.

Councilwoman Suttles said that someone had contacted her about his neighbor off of Pleasant Valley Drive, and her flood insurance was going to cost her \$3,000 a year because of what had happened. She was close to the creek. It was one more impact coming on some of the older neighborhoods.

Mr. Nietupski it was a concern that the staff acknowledged and they would be proactive with the community and FEMA representatives.

Councilman Lamerson said that it looked like the City was spending about \$411,000 for work being done on behalf of citizens.

COUNCILWOMAN LINN MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH JE FULLER/HYDROLOGY & GEOMORPHOLOGY,INC. FOR ENGINEERING SERVICES TO UPDATE THE FEMA FLOODPLAIN DETERMINATION OF WILLOW CREEK, TRIBUTARIES OF WILLOW CREEK, BOTTLENECK WASH, AND THE NORTHERN SEGMENT OF GRANITE CREEK IN AN AMOUNT NOT TO EXCEED \$350,000.00; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- K. Recess into Executive Session.

COUNCILWOMAN SUTTLES MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

Mayor Kuykendall said that they should not be more than 45 minutes and would then come back into regular session. Councilman Lamerson suggested that there be a five minute recess. The Prescott City Council recessed for Executive Session at 5:08 p.m.

IV. EXECUTIVE SESSION

- A. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting, pursuant to A.R.S. Section 38-431.03(A)(1).
1. Annual evaluation of Judge Arthur Markham.
- B. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS 38-431.03(A)(4).
1. McBurnie v. City of Prescott

V. POST EXECUTIVE SESSION

The Prescott City Council reconvened into Open Session at 5:44 p.m.

- A. Approval of Employment Agreement with Judge Arthur Markham for a two-year period.

COUNCILMAN LAMERSON MOVED TO EXTEND JUDGE MARKHAM'S CONTRACT WITH THE CITY FOR AN ADDITIONAL TWO YEARS WITH THE SAME TERMS AND CONDITIONS; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

VI. ADJOURNMENT

There being no further business to be discussed the Regular Meeting of the Prescott City Council held December 14, 2010, adjourned at 5:44 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 14th day of December, 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