

PRESCOTT CITY COUNCIL  
REGULAR MEETING  
TUESDAY, JANUARY 11, 2011  
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF THE PRESCOTT CITY COUNCIL held on January 11, 2011 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 3:10 p.m., noting that their 2:00 p.m. Workshop had run late.

◆ **INTRODUCTIONS**

Councilman Lamerson recognized past Councilman Bob Bell and Elisabeth Ruffner in the audience.

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

Reverend McKenna gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Suttles

Councilwoman Suttles introduced Webelos from Pack 7, whose Den Leader was Wade Ward and Assistant Leader was Don Schiller. The Scouts were Christian Burton, Sam Ward, and Michael Anderson. The Pack then led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

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

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Councilwoman Suttles read a proclamation that proclaimed January 17, 2011 as *King Day of Service* and presented it to Maggie Garvey. She thanked the Council for honoring them with the proclamation and recognizing the work they had been doing to put on the event in Yavapai County for about four years. She said that the event was Countywide, and Prescott was one of the host sites. Last year they had about 350 people. She noted that Councilwoman Suttles would be joining them on that date and they were extending the offer to everyone to participate.

Councilwoman Linn also recognized the Rotary groups in the area, who have been holding RYLA all over the world. She said that this was her fourth year of volunteering during the weekend, and many of their Rotarians will be volunteering as well.

**I. PRESENTATION**

A. Citizen recognition of outstanding City employees.

Councilman Hanna said that the Mayor and Council wanted to take the opportunity to commend some of the City employees that went above and beyond their calls of duty during the recent storm. He then read several letters from citizens who recognized:

- ▶ Sanitation workers
- ▶ Fire Department Engine 75 C Crew
- ▶ Dean Hinshaw, Aaron Laipple, Conrad Jackson (Fire)
- ▶ Pat McCarty and Kevin Keith (Water)
- ▶ Street workers
- ▶ Dana Wilson
- ▶ Tiffany Gillo

He said that they were just a few of the compliments received by the City about their workers. At the last meeting they were beaten down a little, but they do appreciate everything they do and by the comments received from the public, they appreciated them as well. He then asked everyone to come forward and be recognized.

Mr. Norwood added that there was some flack that came out over the storm, but they had so many employees, and others, that did an amazing job.

At this time, Councilwoman Suttles came forward with a plaque to present to the outgoing City Manager, Steve Norwood. She also asked past Mayor Rowle Simmons and Councilman Bob Bell to come forward.

Councilwoman Suttles presented the plaque and thanked Mr. Norwood for all of the work he has done for the City of Prescott. He has left his fingerprints all over town, with the Rodeo grounds, communications center, garage, Elks Theater, etc. She said that they may be leaving, but they will never be forgotten. On behalf of herself and the Council she thanked him.

Past Mayor Rowle Simmons said that he was there when they hired him and was now sending him on the road. He said that he had done a great job and wished him good luck.

Past Councilman Bell told Mr. Norwood that he had been a wonderful City Manager and it was a pleasure to serve with him. He remembered that it was a unanimous vote when they selected Steve, and they had done the right thing. He thanked him for his service.

Councilwoman Suttles said that it has not only been a pleasure to know Steve as the City Manager, but also to know his family and the great job he has done.

Councilman Lamerson said that he had really enjoyed working with Mr. Norwood. He was on board when he came on board seven years ago. He has shown professionalism, dedication, intelligence, and there were very few people that he has ever met that he respects, but he respects him. He then presented a watch to Mr. Norwood from the City.

Councilwoman Lopas then asked Mrs. Norwood to come forward and presented her with a dozen roses for her support of her husband.

Mr. Norwood said that he was going to miss everyone. It was the best 7 ½ years of his life. They had a great staff and a great Council, and he owed a lot to Rowle Simmons.

## **II. CONSENT AGENDA**

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

Councilwoman Suttles requested that Items B and C be pulled from the Consent Agenda.

**COUNCILMAN BLAIR MOVED TO APPROVE CONSENT AGENDA ITEMS A AND D; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- A. Adoption of Resolution No. 4061-1131 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution Numbers 2342, 2492, 2552, 2695 and 3345, and authorizing the City of Prescott to enter into another Intergovernmental Agreement, JP 10-0311, with the State of Arizona, through its Department of Transportation (ADOT), for electric power to operate certain traffic signals and lighting on State Route 69 and State Route 89 at intersecting City streets.
- B. Approval of contract with Jellison Law Offices, LLC, for legal representation in the McBurnie v. City of Prescott litigation.

Mr. Kidd explained that this was a request for outside counsel for the purpose of serving as lead counsel in litigation scheduled in the McBurnie v. City of Prescott case, scheduled to begin in February. It was set for a six day trial and is a complex litigation involving the specialty area of employment law. Their recommendation was to hire Mr. Jellison. Mr. Kidd said that the City's insurance policy in existence at that time provides for reimbursement of a portion, up to half, of expenses if they won.

Councilwoman Suttles asked Mr. Kidd what he expected the fees to run. He said that it was hard to tell because a lot of the work has been done in house, but he was estimating around \$85,000.

**COUNCILWOMAN SUTTLES MOVED TO APPROVE THE CONTRACT WITH JELLISON LAW OFFICES, LLC, FOR LEGAL REPRESENTATION IN THE MCBURNIE V. CITY OF PRESCOTT LITIGATION; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.**

- C. Approval of Agreement with Laurie Hadley as Acting City Manager.

Councilwoman Suttles read from the Staff Council memo, noting that the agreement before them was based on the prior discussions, and both Ms. Hadley and the City were in agreement with the terms.

**COUNCILWOMAN SUTTLES MOVED TO APPROVE THE AGREEMENT WITH LAURIE HADLEY AS ACTING CITY MANAGER; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- D. Approval of the minutes of the Prescott City Council Workshop of December 7, 2010, the Regular Meeting of December 14, 2010, and the Special Meeting (Executive Session) of December 16, 2010.

### III. REGULAR AGENDA

Mayor Kuykendall stated that Items III-A and III-C had been pulled from the agenda.

- A. Public Hearing and consideration of a liquor license application from Neeta Patel, applicant for Engineering Consultancy Group, Inc. for a Series 10, Beer & Wine Store, license for Prescott Food Store located at 146 South Montezuma Street.

Item pulled from the agenda.

- B. Approval of option for the Downer Trail Gate.

Mayor Kuykendall noted that this was continuation of the Workshop that began at 2:00 p.m.

**COUNCILMAN HANNA MOVED TO KEEP THE GATE CLOSED AT DOWNER TRAIL AS NOTHING HAD CHANGED, PENDING RECONSTRUCTION, ENGINEERING, FUNDS, ETC. TO BRING IT UP TO CITY STANDARDS; SECONDED BY COUNCILWOMAN LOPAS.**

Councilman Blair said that he would like to have the issue of emergency access added to the motion. It was clarified that both Police and Fire had keys to open the gate, and staff confirmed that they would make sure that LifeLine had a key as well.

**MOTION PASSED UNANIMOUSLY.**

- C. Adoption of Resolution No. 4062-1132 – 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 Yavapai County for the construction and maintenance of West Dells Ranch Road and authorizing the mayor and staff to take any and all steps necessary to accomplish the above.

Item pulled from the agenda.

- D. Authorization to proceed with procurement of equipment for construction of two traffic signals on Willow Creek Road, one at Commerce Drive and the second 1700 feet north.

Mr. Mattingly reviewed the Council memo, noting that the intersection of Willow Creek Road at Commerce Drive had been experiencing increased traffic volumes over the past ten years, resulting in congestion and delays

during the morning and afternoon peak hours, resulting in two traffic signal warrants being met.

He said that the location accessing Tim's Subaru/Hyundai currently is not open to traffic and the driveway on the east accesses two undeveloped parcels. No traffic signal warrants were being met at this time, however, imminent development of the Prescott Honda site and the adjoining north parcel in the future will potentially meet one or more warrants.

Constructing the signals as a pair, within a relatively close timeframe, will best serve long term traffic needs in the area. The new signals will be lined via interconnection cable to those at Sandretto Drive, Willow Lake Road, Montana Drive, Crossings Drive, and Smoketree Lane.

He said that the design and construction of both signals would be completed in house by the Transportation Services Division. The total cost for the signal equipment and materials, for both traffic signal locations, would not exceed \$156,500.00 with funding from the one Cent Sales Tax for Streets and Open Space.

Councilman Hanna said that he has had no ill feedback from the lights being proposed, but his only concern, and those voiced by some citizens, was the need to make sure they were synchronized with one another. As long as that occurred, he was fine with them.

Mr. Mattingly said that they would have an extra controller and they would be interconnected by line back to the offices at the Public Works headquarters, where they could monitor them and do synchronization. He said that they would make them as efficient as possible.

Councilman Blair asked if there was a cost savings in buying for both now. Mr. Mattingly said that there would be some cost savings in those items in which they buy in quantities.

Councilman Blair asked if the costs were split evenly between the two signals. Mr. Mattingly said that it was more \$100,000 for one and \$80,000 for the other as the one at Commerce would only have three legs, while the other would have four.

Councilwoman Lopas noted that the Council members had received a letter from a member of the Transportation Coordinating Committee asking why they did not see the second light. Mr. Mattingly said that the Transportation Coordinating Committee is an advisory Committee and they do not see every project. They did not see the one at Willow Creek and Commerce either.

He said that staff has been monitoring those signals since about 2006. His understanding was that Prescott Honda was moving forward as well as the adjoining parcel, and the TCC was informed at the monthly meeting of the intent of this going to Council.

Councilwoman Suttles asked if it was essential to put in the second light if the warrants were not there. Mr. Mattingly said that it was not essential. They know the facts are that both parcels will be developing. In 2004 when Willow Creek Road was built they put in conduit anticipating that a signal would be warranted. Many times Council decides to put in signals in advance of development, but that would be a decision for Council.

Councilwoman Suttles said that the traffic at Commerce was certainly demanding, but they were open to criticism asking why the money needs to be spent now before the growth was in place.

Councilman Lamerson said that he appreciated the comments with regard to warrants versus no warrants. From a public safety standpoint, some of the lights were warranted. If part of it was not warranted, he asked who was expected to pay for it. He asked if it was for future economic development. Mr. Nietupski said that for the past several years there has been discussion with the property owner at the 1700 foot location regarding a signal so that it would coincide with the opening of a new Honda dealership. He said that it would benefit the City with respect to sales tax revenue, so there were positive aspects that go along with it.

Councilman Lamerson asked if that meant they were putting the second light in to benefit the dealership. Mr. Nietupski said that it would benefit the City.

Mayor Kuykendall said that an hour before the meeting today he was told of an agreement that was contemplated two years ago, but the election occurred and the agreement was never completed. At that time the City had agreed to reimburse the Honda dealer for an amount not to exceed \$250,000 for the installation of a traffic signal. He said that Mr. Nietupski was also working with the County for help on the Commerce signal and they hoped to have an IGA to bring back in that regard. He said that he felt it was a good move.

**COUNCILMAN BLAIR MOVED TO AUTHORIZE PROCEEDING WITH PROCUREMENT OF EQUIPMENT FOR CONSTRUCTION OF TWO TRAFFIC SIGNALS ON WILLOW CREEK ROAD, ONE AT COMMERCE DRIVE AND THE SECOND 1700 FEET NORTH; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.**

- E. Authorization to proceed with development of an Intergovernmental Agreement with Yavapai County for the installation of sanitary sewer service to Pioneer Park and commencement of construction.

Ms. Horton said that when the Pioneer four-plex was initially constructed it was not in proximity to city sewer services and, therefore, a septic system was deemed necessary. The system in place was not designed for the volume of use that it currently experiences and must be pumped out more frequently than a properly functioning septic system should.

She said that an opportunity presented itself when Yavapai County began the design phase for their new facility on Commerce, at which time they offered the City an opportunity to tie in to their lift station so the four-plex could be served. The IGA would provide for the County's contractor to construct the sewer main extension to connect the four-plex to the new lift station at an estimated cost of \$65,000, which would come from Park Impact Fees.

Councilman Hanna asked if there would have to be a lift station. Mr. Nietupski replied that it would be a gravity sewer system.

**COUNCILWOMAN LOPAS MOVED TO AUTHORIZE PROCEEDING WITH DEVELOPMENT OF AN INTERGOVERNMENTAL AGREEMENT WITH YAVAPAI COUNTY FOR THE INSTALLATION OF SANITARY SEWER SERVICE TO PIONEER PARK AND COMMENCEMENT OF CONSTRUCTION; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.**

- F. Adoption of Resolution No. 4063-1133 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution Number 4001-1031 and adopting new Rules of Procedure for the Prescott City Council.

Mayor Kuykendall said that they discussed this issue last week. He thought it had been working great. The next several months they will be spending a lot of time in workshops and this would provide an opportunity to devote more time to them.

Councilman Blair said that as long as they changed the time to start at 3:00 p.m. for the workshops, he suggested they leave it as is.

Daniel Mattson, Prescott, addressed the Council to clarify that it was the only change to the current process. It was noted that this would put in writing what they have been doing for several months, other than the time of the workshops being changed to 3:00 p.m.

**COUNCILMAN BLAIR MOVED TO ADOPT RESOLUTION NO. 4063-1133, VERSION A; SECONDED BY COUNCILMAN HANNA; PASSED 6-1 WITH COUNCILWOMAN SUTTLES CASTING THE DISSENTING VOTE.**

G. Appointment of Mayor Pro Tempore.

Mayor Kuykendall said that they were almost two months late in making this designation. He thanked Mayor Pro Tem Lamerson for stepping in when he was out.

Councilman Hanna said that any one of them could perform the duties, but with the recent past with the Mayor's health issues and Mayor Pro Temp Lamerson stepping in, he **MOVED TO APPOINT JIM LAMERSON AS MAYOR PRO TEM, TO EXPIRE IN NOVEMBER 2011; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

Councilman Lamerson thanked everyone.

H. Recess into Executive Session.

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

The Prescott City Council recessed into Executive Session at 4:07 p.m.

**IV. EXECUTIVE SESSION**

A. 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. Lexington Insurance/Casa de Pinos v. City of Prescott.

**V. ADJOURNMENT**

The Prescott City Council reconvened into Open Session at 4:29 p.m. at which time the Regular Meeting of January 11, 2011, was adjourned.

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MARLIN D. KUYKENDALL, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 11th day of January, 2011. I further certify the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2011.

AFFIX  
CITY SEAL

\_\_\_\_\_  
ELIZABETH A. BURKE, City Clerk