

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, MARCH 22, 2011
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on MARCH 22, 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 3:00 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION**

Pastor Sam Webb, Heights Church, gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Hanna

Councilman Hanna 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 Linn noted that the Kiwanis Auction would begin next Monday and would be ongoing every week night from 7:00 P.M. to 10:00 P.M. for the next two weeks. She encouraged everyone to go to Access 13 or online www.prescottkiwanisauction.com to bid for items.

I. PRESENTATION

A. Discussion on Major Amendment to 2010 CDBG Annual Action Plan.

Ms. Hartmann noted that the City had allocated \$100,000 to Project Aware. She said that they did not get their Veterans Administration (VA) grant. She noted that the City came up with the idea of affordable housing for the formerly homeless families. She said that Project Aware had the property on Montezuma and Leroux which was used for a business known as Bear Paws. She noted that the property had been on the market for a few years. Project Aware rented part of it so they would know when it went on the market for sale. She said that they also had a four unit building they wanted to renovate. If they owned it outright, they could get a low interest loan from one of the banks.

She noted that the money would come from Community Development Block Grant (CDBG) funds that the City already had on hand, noting that \$100,000 of that would come from what was previously set aside for Project Aware. She said that West Yavapai Guidance Clinic would forfeit part of their grant to go into the pot. She said that she also had money left over from renovation and they hit the \$160,000 mark. She noted that the property was appraised in September higher than that. She said that a new appraisal was due back on March 30, 2011.

She noted that the current building on the property would be raised as it had no real value. She showed photos of the property and said that they could get five units of family housing on the property. She noted that it would be four units and then one unit on top that would be a two-bedroom.

She said that 215 West Leroux was the only bad building at the location. It was a commercial building and they would roll money into that for four more units. This was something that was good for the community with all of the homeless people the City had.

The amendment proposal had been out since February 27, 2011, to the public. She said that it would close on March 29 and she would bring it back for public hearing on April 5, 2011 so they could move forward. She noted that it would not change the amount of money allocated for the year, just move it around. She said that if they did not spend the money, they would lose it.

Councilwoman Suttles asked if it was the first time she had been involved with purchasing property with the CDBG. Ms. Hartmann said yes. Councilwoman Suttles asked what would happen with the property if they bought the property now and did the work. Ms. Hartmann said that they

would buy the property for Project Aware and put a five year lien against the property. She said that they would be responsible for taxes and the City would not own it. She said that they would have a lien until the amount of the loan dropped down 20% per year.

Councilwoman Suttles asked if she had posted public meetings for the neighborhood. Ms. Hartmann said no but she could work with Planning & Zoning to do so. Councilwoman Suttles asked if this was something that they could get into later on or if she was doing it then because the money was there. Ms. Hartmann said that the money was there. She said that entitlement programs were taking hits and she wanted to do something that would have an impact while the City had the opportunity. She noted that Project Aware had been around for 20 years and they had grown and improved their property.

Councilman Hanna asked what the requirements were to rent one of the properties. Ms. Hartmann said that they had to make less than \$12,000 a year. She noted that the units came furnished and there were strict rules regarding alcohol and drugs. She said they had drug and alcohol testing and if they failed once, there was no second chance. Councilman Hanna asked if the City had problems with the units. Chief Kappel said that there was not anything out of the ordinary for that neighborhood.

Councilwoman Linn said that it was a good project and if they did not use the money they would lose it. She applauded West Yavapai Guidance Clinic and said that Linda Hartmann had done a good job.

Councilman Blair asked how long the people could stay there. Ms. Hartmann said that they could not be kicked out unless they violated the rules. She noted that they would stay about a year until they got themselves settled.

Councilman Lamerson asked if there was any scrutiny over who rented the properties. Ms. Hartmann said that the majority of those renting would have come from a graduated program, like Prescott Area Women's Shelter. She said that they housed single women and those with children as well as families. They go through counseling and banking to help them become good citizens.

Councilman Lamerson asked, if he had a company that rented to rehabilitation people and he had eight unrelated people under his roof, if they were able to rent the houses. Ms. Hartmann said that she did not think so. Councilman Lamerson said that definition of a family for Fair Housing was eight unrelated people. Ms. Hartmann said that she would look into it and send him an email.

Mr. Guice thought that the individual had to be related, but he would double check.

Councilman Hanna asked if they had to be legal citizens. Ms. Hartmann said yes and that when they moved in they should have a job.

II. CONSENT AGENDA

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

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

- A. Authorization for annual licensing and support contract with Dell for OnBase document imaging program in the amount of \$21,132.67.
- B. Approval of the minutes of the Prescott City Council Workshop of March 1, 2011, and the Regular Meeting of March 8, 2011.

III. REGULAR AGENDA

- A. Appointment of Members to the Board of Adjustment, Parks and Recreation Board, Planning and Zoning Commission, and Prescott Preservation Commission.

Ms. Burke said that a few terms were up and they had also received a resignation from a board member. The Council Appointment Committee had met and was making the recommendations listed.

COUNCILWOMAN SUTTLES MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE'S RECOMMENDATION TO REAPPOINT GEORGE WIAIT AND APPOINT GREG LAZZELL TO THE BOARD OF ADJUSTMENT, TERMS TO EXPIRE MARCH 2014; APPOINT ROWLE P. SIMMONS TO THE PARKS AND RECREATION BOARD, TERM TO EXPIRE MARCH 2013, AND APPOINT JANELL RIEDL TO SERVE AS VICE CHAIRMAN; APPOINT GEORGE SHEATS TO THE PLANNING AND ZONING COMMISSION, TERM TO EXPIRE MARCH 2015; AND REAPPOINT LEE VEGA TO THE PRESCOTT PRESERVATION COMMISSION, TERM TO EXPIRE MARCH 2014; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

Councilwoman Suttles said that they were pleased that so many people applied for the boards.

B. Presentation and acceptance of the 2009 Airport Master Plan.

Mr. Vardamin said that they had been working for three and one half years with members of the community which included the City of Prescott, Chambers of Commerce for the area, local area land holders, Antelope Hills Homeowners Association, Prescott Resort Homeowners Association, Prescott Valley representatives, Embry-Riddle Aeronautical University, Legend Aviation, United States Forest Service, North Air Guidance, Control tower and local airport users. He said that they also had a project management team.

He said that they held 14 meetings with 3 of them being public information meetings. He noted that there was a 30-day public comment period which started August 1, 2009. He then reviewed the following:

◆ Master Plan Process

◆ FAA APPROVAL RECEIVED NOVEMBER 30, 2010

He said that since that time they had been going through and pulling all of the final documentation to submit the Final Master Plan to Council.

◆ FINAL MASTER PLAN

He noted that it would be available at the Public Library, City Hall, Airport Administration office and online as well as the Prescott Town Library, Yavapai County administration offices, Embry-Riddle Aeronautical University library and copies to the Federal Aviation Administration (FAA) and the Arizona Department of Transportation Aeronautics Division.

◆ IMPORTANT THINGS TO KNOW

Councilwoman Suttles asked if the Master Plan was the same as the General Plan for the City. Mr. Vardamin said that he thought it was but it was more area specific. Councilwoman Suttles asked if it had to be done in order to continue receiving funding from the FAA. Mr. Vardamin said yes.

Councilwoman Suttles said that they were all looking at the airport to have great plans for it to succeed. She asked if someone had a business that they wanted at the airport, it would have to fit into the Master Plan. Mr. Vardamin said for the most part yes. He said that the Master Plan was a very broad document that did not limit uses.

Councilwoman Suttles asked if it was still open to public information. Mr. Vardamin said they were done with public comment and were ready to accept the Final Master Plan.

Councilwoman Linn asked when the plans were placed at the locations. Mr. Vardamin said they would be placed as quickly as possible. Councilwoman Linn asked what he hoped to accomplish by placing them in the locations if Council voted on them that day. Mr. Vardamin said that he hoped to provide the information to the public. He wanted the public to know what was going on at the airport.

Mayor Kuykendall asked at what point he would integrate the moving of the 400 foot box. Mr. Vardamin said that they would include a requirement on City projects that the airport layout plan be updated. Mayor Kuykendall said that the advisory group work was done when that plan was accepted.

Councilwoman Suttles asked for an explanation of the “400 foot box.” Mayor Kuykendall said that there was a safety issue at the west end of the runway. The FAA said that the threshold was too close to the West end, and 400 feet had to be added at the other end of the runway. He noted that they would actually have 700 feet on the west end. Mr. Vardamin said that there would be 400 feet of paved area that would be an emergency overrun. The shift of the runway gave them a 1,000 foot runway safety on the South West end.

COUNCILWOMAN LOPAS MOVED TO ACCEPT THE AIRPORT MASTER PLAN FOR PRESCOTT MUNICIPAL AIRPORT, ERNEST A. LOVE FIELD AND FURTHER AUTHORIZE THE MAYOR AND STAFF TO TAKE ANY AND ALL ACTIONS NECESSARY TO ACCOMPLISH THE ABOVE; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

Councilwoman Linn asked that Mr. Vardamin make sure that his business cards and contact information were there. She said that it should have been out before. Mr. Vardamin said that it was and they had draft documents out in many locations since August of 2009. He noted that people could get in touch with them at 777-1114.

- C. Adoption of Ordinance No. 4787-1138 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, granting a utility easement to Arizona Public Service Company in the vicinity of Ernest A. Love Field, and declaring an emergency.

Mr. Vardamin said that they were working with Arizona Public Service (APS) to install the electrical transmission lines running from SunEdison Solar Farm to the substation at Ruger. This easement would go across airport property. As compensation for the easement, for the first 35 years APS would be removing the 3 electrical poles closest to the runway. The estimated cost would be \$123,000.00 to APS.

He said that after the 35 year term, the annual rate for easement was to be negotiated between APS and the City based upon fair market value at the airport; however, no less than \$5,000 per year for access and location of lines. He noted that they had requested to start immediately with construction to get the poles down as quickly as possible.

Councilman Blair asked when the City made that request of APS to respond to move the utilities if they did it under an emergency clause and he asked how quickly they responded. Mr. Nietupski said that APS had been a cooperative utility working with the City for relocating facilities. He said that they had been one of the better utilities to work with.

COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4787-1138, AND DECLARING AN EMERGENCY; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- D. Public Hearing and approval of the 2011 Draft Annual Action Plan for Community Development Block Grants (CDBG).

Ms. Hartmann noted that they did an action plan every year and sent it to the Department of Housing and Urban Development (HUD). HUD advised her to increase her budget by 5% from last year. Most of the City's requests were for public service which had a 15% cap. They could only use 15% of their grant funds for public service. One was for \$150,000. She then showed a PowerPoint which covered the following:

- ◆ West Yavapai Guidance Clinic requested \$165,840. The City tried to give them as much as they could which was \$157,840. They were asking to replace their roof at 625 Hillside in the Dexter Neighborhood. She said that they also had a parking lot in need of repair on Cortez Street. She also showed rotting fascia board on their property on Dameron Drive. They also needed a new roof on Dameron Drive.

- ◆ Adult Day Care Center asked for \$30,000 grant. Their ceiling started falling down and the roof needed repair. They asked for an increase in the grant. She noted that the City would like to grant them \$45,000 to fix the exterior roof and get a new ceiling.
- ◆ Coalition for Compassion and Justice asked for a \$15,000 grant to repair heating in senior low income mobile housing.
- ◆ Meals on Wheels asked for \$17,500 for their weekend emergency meals.
- ◆ Women's Education and Empowerment Cause asked for operational costs of \$15,000.
- ◆ Community Legal Services offered assistance to low income clientele regarding fair housing.
- ◆ Fair Housing Outreach was money set aside for the City to provide programs. She said that on March 30, 2011, there would be a program where people from HUD, the State and the Attorney General's Office would talk about rights in Fair Housing.
- ◆ Administration was the implementation and completion of the grant. The \$66,960 included salary, contracting, binding and advertising.

Councilwoman Linn noted that there were a lot more applicants. She noted that it was the first time a lot of them had come forward. She said that they scrutinized every one of the applications and she applauded the committee members.

Mayor Kuykendall asked what the process was to audit these grants to make sure the money was spent as expected. Ms. Hartmann said that was part of her job and that she was being monitored by HUD. She said that she monitored the legal environment as far as aliens went. She said that she went to job sites to interview workers and stayed involved with the projects until they were finished.

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

**COUNCILWOMAN LINN MOVED TO APPROVE THE 2011 CDBG
DRAFT ANNUAL ACTION PLAN; SECONDED BY COUNCILWOMAN
SUTTLES; PASSED UNANIMOUSLY.**

- E. Approval of a contract between the City of Prescott and GL General contracting LLC in an amount not to exceed \$33,145.31, for CDBG renovation project.

Ms. Hartmann said that the renovation was for the Catholic Charities Duplex located at 218, 220 Virginia Street. She said that they went out to bid in February and on March 2 they received five bids. GL General Contracting was the lowest bidder. She had verified their information from rock to the excluded contractors list and verified them with City of Glendale and with another project they were involved with in Phoenix. She said that they got glowing reports from the engineers at Glendale Public Works. She said that they were not a local contractor, but they outbid the local contractors.

Mayor Kuykendall noted that Catholic Charities was a grant recipient for \$67,000 and now they were only talking about \$33,000. Ms. Hartmann said that they split it with Northern Arizona Council of Governments (NACOG) and the State of Arizona and the bids all came in lower. She said that they would take that portion of the money not spent on Catholic Charities and roll it into the final plan that she would bring forward to Council.

Councilwoman Linn noted that according to procurement law the City had to take the lowest bid and it broke her heart that it was going to a Phoenix company. Ms. Hartmann said that she had the same feeling in many respects; however if the City of Phoenix did not take bids from Prescott contractors, they would be taking money out of the Prescott contractors' mouths.

Councilwoman Linn asked if they legally had to go through the process or if NACOG could have done it. Ms. Hartmann said that the City had to go through the process.

COUNCILWOMAN SUTTLES MOVED TO APPROVE A CONTRACT BETWEEN THE CITY OF PRESCOTT AND GL GENERAL CONTRACTING LLC IN AN AMOUNT NOT TO EXCEED \$33,145.31, FOR THE CDBG RENOVATION PROJECT; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- F. Authorization to complete a grant application to the Arizona Department of Homeland Security seeking State Homeland Security FY12 Grant Program funds in the amount of \$1,000,000, for continuation of regional communications interoperability enhancement projects previously administered by the Prescott Valley Police Department.

Chief Kabbel noted that it was a quick turnaround grant and that they actually would be requesting about \$600,000. He said that the funds sought would purchase mobile radios for the vehicles, radio consoles for the Prescott Regional Communication Center, some portable radios for the Prescott Fire Department and other equipment for the Prescott Valley Police Department, Central Yavapai Fire District and the Yavapai College Police Department.

He noted that the grant was previously administered by Prescott Valley Police Department each year since 2007. He said that they were trying to have good interoperability in case there was a crisis with radio communications. He said that they were also under unfunded mandates by the Federal Communication Commission that all of their radios that were currently wide band had to be narrow band by January 2013. There were no local matching funds requirements for the grant.

Councilwoman Suttles asked what their chances were for the grant. Chief Kabbel said that last year they asked for close to \$1,000,000 for a lot of the same items and ended up with approximately \$300,000. He said that the State Department of Homeland Security had a group that judged all of the grant applications that were submitted based on what they believed were the greater needs and prioritized them. They might fund the top 5 of 20 applications. He said that Prescott may only see a small portion of what they were asking for. He noted that they broke down the priorities in the grant application.

Mayor Kuykendall asked if it would become a budget item if they did not get the grant. Chief Kabbel said yes.

COUNCILWOMAN LOPAS MOVED TO AUTHORIZE COMPLETION OF A GRANT APPLICATION TO THE ARIZONA DEPARTMENT OF HOMELAND SECURITY SEEKING STATE HOMELAND SECURITY FY12 GRANT PROGRAM FUNDS IN THE AMOUNT OF \$1,000,000 FOR CONTINUATION OF REGIONAL COMMUNICATIONS INTEROPERABILITY ENHANCEMENT PROJECTS PREVIOUSLY ADMINISTERED BY THE PRESCOTT VALLEY POLICE DEPARTMENT; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- G. Authorization to complete three FY12 grant applications to the Governor's Office of Highway Safety seeking total funds in the amount of \$90,500, to be used for DUI enforcement, speed and aggressive driver enforcement, and purchase of an enforcement motorcycle.

Chief Kabbel noted that they were asked to put in separate applications for each item needed. He said that they would put in three applications,

one for—\$37,500 for DUI enforcement details; the second for \$25,000 to be used for traffic enforcement details; and the third for \$28,000 to purchase a fully equipped motorcycle. He said that there were no local matching fund requirements.

Mayor Kuykendall asked if they picked which items were funded. Chief Kabbel said that if they did a partial grant, the City could not pick the items.

COUNCILMAN LAMERSON MOVED TO AUTHORIZE COMPLETION OF THREE FY12 GRANT APPLICATIONS TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY SEEKING TOTAL FUNDS IN THE AMOUNT OF \$90,500, TO BE USED FOR DUI ENFORCEMENT, SPEED AND AGGRESSIVE DRIVER ENFORCEMENT, AND PURCHASE OF AN ENFORCEMENT MOTORCYCLE; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- H. Adoption of Resolution No. 4072-1142 – 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 College to formalize the appointment of a Prescott Police Department Sergeant to supervise the Northern Arizona Regional Training Academy (NARTA) at Yavapai College and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Chief Kabbel noted that they would be assigning a Sergeant to supervise the Training Academy at Yavapai College. The City would assign a Sergeant full time and in return Yavapai College would pay for the full salary and benefits of the Sergeant for the period of three years. He said that there would be no financial impact to the City of Prescott.

Mayor Kuykendall asked why the college did not just hire a Sergeant instructor. Chief Kabbel said that the Northern Arizona Regional Training Academy was governed by a Board of Directors. He said that each police department in the region had a representative and they ran The Academy jointly. He said that Yavapai College facilitated the facility and the AZPOST requirements for certification. The Academy had been in place since 1996 and they had periodically switched off responsibilities of supervision. He said that in their bylaws they had a supervisor which was a Sergeant and a Commander overseeing the Academy from different departments.

He said that prior to that change, the Yavapai County Sherriff's Office had the Commander in place and Prescott Valley Police Department had the Sergeant. He said that they were rotating the Sergeant position but when it came time for promotions and reassignments, they wanted stability so

they could have a Sergeant from one of their own that could teach cadets from the Prescott area. The college agreed to pay the salary so that continuity would be there. Through attrition they could take that position back when the agreement had expired; this way they could be assured that the person was trained properly.

Mayor Kuykendall asked if it would be the same person for three years; Chief Kabbel said yes. Mayor Kuykendall asked what would happen if there was not a hole when he came back to the Police Department. Chief Kabbel said that for the past 21 years, they were always hiring. He knew of 2 retirements that were going to happen between the 2.2 and 3 year marks. Mayor Kuykendall asked if it would impede his promotional opportunities. Chief Kabbel said not at all. He noted that they would fill the Academy Sergeant position with another Sergeant.

Councilman Hanna asked if another person would be promoted to Sergeant or anyone else would be hired. Chief Kabbel said that they had hired an officer to take that Sergeant's place and they would be promoting a current officer into a Sergeant position.

Councilwoman Suttles asked if the Academy Sergeant would help the City in an emergency. Chief Kabbel said that he still maintained supervisory accountability of that Sergeant. He said that the Sergeant still worked for the City of Prescott Police Department and would still have opportunities to work details in the City. He noted that Sergeant Brambila was the team leader for the SWAT team and that he was available for trainings and for whatever the Police Department saw fit.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 4072-1142; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- I. Adoption of Resolution No. 4071-1141 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the 2005-2010 Water Management Policy, as extended, to provide for reservations of water for Vacant Residential Unwatered Parcels, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Ms. Graser noted that the Water Issues Committee considered two requests for rezoning and concluded that they would provide the recommendation to the Council that due to the limited quantity of alternative water available to the City, in the event that a vacant residential partially was rezoned, the present reservation of water for that parcel should not be increased to reflect any increase in dwelling units created by the rezone. She said that at such time that an actual application for

development of the property was submitted in the future, the Council would consider a Water Service Agreement providing for a increase in density.

COUNCILMAN LAMERSON MOVED TO ADOPT RESOLUTION NO. 4071-1141; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- J. Approval of a professional services agreement with Civiltec Engineering for Professional Engineering and Surveying Services to develop Final Plans, Specifications and Estimates for the Cliff Rose Drainage Improvement Project and the Black Hawk Drainage Improvement Project in an amount not to exceed \$128,939.00. (Funded through Yavapai County Flood Control District)

Mr. Nietupski said that there was a typo and the amount should be for \$129,939.00. He noted that the contract was a result of a Master Plan Drainage Study that the Council authorized in November 2010 with Civiltec Engineering. He said that the project was entirely funded through the Yavapai County Flood Control District (YCFCD). He said that the City was currently in discussions with YCFCD with respect to funding for the improvement in another Intergovernmental Agreement. The costs would be approximately \$900,000 for Cliff Rose and \$500,000 for Black Hawk and would benefit 50 properties.

Councilman Blair asked why the County would be involved with two subdivisions within the City of Prescott. Mr. Nietupski said that Yavapai County, through property tax, assessed a flood fee for the entire county and that it was done on a regular basis. Everyone in City paid for that fund as well as those in Yavapai County. He said that through their program they looked at projects that would enhance the communities. Through the district, they accepted applications for project improvements. He said that was one way to take advantage of the funds paid for by the taxpayers of City of Prescott.

Councilman Blair asked if Cliff Rose and Black Hawk were built out. He asked if there was still responsibility for the developer to the drainage issues that they created. He said that there were different developments and if they had not given a proper drainage master plan to the City that worked, he wondered why the tax payers had to pick up the dime.

Mr. Nietupski said that the designs for both of the subdivisions were based on ten year events, which was the design standard. He said that both of the subdivisions were at 10 years, but he believed that the standards needed to be at 25 years, which would improve the drainage facilities. Councilman Blair asked if that was what the developers were designing

them at now. Mr. Nietupski said that they were working on an update in their drainage criteria manual.

Mr. Nietupski said that the drainage criteria manual had been reviewed by a number of engineers in the community with assistance of Greg Toth so that future construction would be better than what they had seen in the past. Councilman Blair said that he had trouble with developments on slopes and hillsides doing the bare minimum and then asking the tax payers to bail them out.

Councilman Lamerson said that as the community evolved and changed sometimes they had to address the codes they had in place.

Mayor Kuykendall asked if the Yavapai County Flood Control District (YCFCD) had to put their blessing on the contracts or if there was a gross amount that the City could work within. Mr. Nietupski said that when the City entered into the IGA they defined the kinds of projects that would be developed. As the City went through the budget process, they were communicating with the Flood Control District what projects were contemplated so they would be identified in that IGA. He said that those estimates of costs were the basis with the funding provided through the YCFCD. Mayor Kuykendall asked if the City was pretty well assured that once the engineering was done they would have funds to do the construction. Mr. Nietupski said yes.

Councilman Hanna said that he had a real problem putting \$1,000,000 on the taxpayers. He said that he had been in Prescott a long time and the topography had not changed much. He asked who messed up and wanted to know if it was the City of Prescott by not requiring a 25 year over a ten year. He asked how that would not happen again.

Mr. Nietupski said that he did not believe that it was a mess up by anyone. He said that as time went by codes were updated. The Drainage Criteria Manual under which they were developed dated back to the 1980's. He said that things had changed since then, just like the plumbing code and fire code. He said that they did make changes to improve situations. The funding was available to address deficiencies such as that.

MAYOR KUYKENDALL MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CIVILTEC ENGINEERING FOR PROFESSIONAL ENGINEERING AND SURVEYING SERVICES TO DEVELOP FINAL PLANS, SPECIFICATIONS AND ESTIMATES FOR THE CLIFF ROSE DRAINAGE IMPROVEMENT PROJECT AND THE BLACK HAWK DRAINAGE IMPROVEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$129,939.00; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- K. Adoption of Ordinance No. 4782-1133 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the zoning of certain property within the City of Prescott generally located at 3351 Gateway Blvd., south of Gateway Mall, from Single-Family Residential-12,000 sq. ft. minimum lot size (SF-12) to Multi-Family Medium Density (MF-M). (RZ10-002: Scott Lee; Owner: Bullwhacker Associates)

Mr. Guice said that no development proposal accompanied the ordinance and that the Planning & Zoning Commission recommended unanimously approving the ordinance. He said that pursuant to Resolution 4071 approved that day, water allocation for it would occur at the time a specific development proposal was brought forward.

COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4782-1133; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

Mr. McConnell said that the motion was different on the staff recommendation for each of the two items than what was printed on the printed agenda. He suggested that they used the longer motion which was on the brown sheet in the packet which provided the reference pertaining to the water reservation.

COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4782-1133 WITH NO CHANGE IN THE ALTERNATIVE WATER RESERVATION PURSUANT TO RESOLUTION NO. 4071-1141; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- L. Adoption of Ordinance No. 4785-1136 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the zoning of certain property within the City of Prescott generally located at 100 N. Walker Road from Rural Estate-2 acre minimum lot size (RE-2) to the Single-Family Residential-12,000 sq. ft. minimum lot size (SF-12). (RZ10-001: Agent: Scott Lee; Owner: Bullwhacker Associates)

Mr. Guice said that it was a straight forward zoning request. He said that it was approximately eight acres that were to be used for the equestrian site. He said that there was not much of an increase in density. He noted that the Planning and Zoning Commission had a unanimous recommendation to approve with the same conditions as Ordinance 4785-1136.

Councilwoman Linn asked if there would be neighborhood meetings when they went forward with the planning. She asked what the process would be. Mr. Guice said that they use the provisions of Article 9 in the Land Development Code which spelled out the citizen participation program. The State law had one requirement that there be either a mailing to property owners or a posting of the property, or newspaper advertising. He said that they did all three things and then they expand the notice area. He noted that they did do a neighborhood meeting for each of these and eight people showed up with no real concerns expressed.

Mayor Kuykendall asked if the rezoning was consistent with the Prescott General Plan and the Ranch Master Plan; Mr. Guice replied that it was.

COUNCILMAN BLAIR MOVED TO ADOPT ORDINANCE NO. 4785-1136, WITH NO CHANGE IN THE ALTERNATIVE WATER RESERVATION PURSUANT TO RESOLUTION NO. 4071-1141; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- M. Public Hearing and adoption of Ordinance No. 4786-1137 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title X, Land Development Code, of the Prescott City Code by amending Sections 2-3; 2.4.17 through 2.4.25; 2.4.45 through 2.4.46; 11.1.3 and 11.2 pertaining to transitional housing and group homes in accordance with the federal Fair Housing Act.

Mr. Guice introduced Ruth Hennings and stated in August, as an intern, she had taken the lead on this issue. He said that it was a fairly extensive topic.

Ms. Hennings said that the amendments related to group homes and transitional housing. She said that those sections of the Zoning Code were out of compliance with the Federal Fair Housing Law and were not currently enforceable.

Councilwoman Suttles asked her to break down the difference between transitional housing and group homes. Ms. Hennings noted that was the part that was out of compliance. She said that Transitional Housing included things like half/way houses or any type of use that was working with residents to move them toward a permanent position. Councilwoman Suttles asked if group homes would fit into that definition. Ms. Hennings said that group homes encompassed a couple of different uses and they were staying away from that word. She said that they were commonly known as homes for people with permanent disabilities.

Councilman Blair asked why she would stay away from that terminology. Ms. Hennings said that they had seen recent case law and model ordinances that people were avoiding the terms because of the stigma associated with them, and confusion surrounding the populations that they served. She said that they were leaning towards definitions that were inclusive of all different types of residences for people with disabilities.

Ms. Hennings noted that in 2003 the current Land Development Code was adopted. She noted that the City was made aware that their 2004 revisions were out of compliance with Federal Fair Housing Law. She said that staff had worked on and off on the issue, but it was not until her internship that they had the time to delve into the necessary research and work with the legal team on an appropriate strategy for the amendment.

She said that the Fair Housing Act 1988 Amendments stated that zoning that treats groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities violated the fair housing act.

She said that their strategy broke down into two parts. The first one was that any residence of 1 to 8 people needed to be permitted the same as any other single family dwelling unit and there were restrictions and regulations concerning licensing and length of tenancy. She said that a community residence that was more family oriented and permanent in nature was most appropriate in a single family district. She noted that those that were more transitional and had larger numbers of people were allowed in a multi-family district.

She said that they took the strategy through the Unified Development Code Committee and they gave them some suggestions. She noted that they had a study session with Planning and Zoning and two public hearings and they voted unanimously to recommend approval. She said that there were also a couple of newspaper articles and a radio show with no negative comments from the community.

Mr. Mattson said that he was at the Planning and Zoning Commission meeting and that he had interaction with several of the group homes in the area and they had no complaints. He also noted that the 1-8 people meant 1-8 unrelated people. Ms. Hennings said that he was correct and that it stemmed from Prescott's definition of a family.

Councilman Blair asked if unrelated people could be living in a house and be charged rent. He asked how that worked if they were supposed to treat unrelated people the same as a family they would not be charged rent for a room. He asked if they would be paying a bed tax to the City. Ms. Hennings said that they were provided the same rights as any other

rental accommodations. She said that an example might be a group of eight college students living together and paying rent individually for living in a house; that owner paid the rental tax. She noted that part of the Fair Housing Act mandated that the residences be considered residential in use and not commercial. She said that treatment centers were not included in that strategy.

Councilman Blair asked how they could control something that might become a public health and safety issue. He asked what if there was only one bathroom in the residence. Ms. Hennings said that they were still subject to the same building requirements. They would not be allowed to cram more people into a house than any other property owner.

Councilman Lamerson said that he was concerned about the CDBG grant money being used to create housing for protected classes and the City participating in that knowing full well that according to Federal Fair Housing that they could not treat one group of people different than another group of people. He asked her to comment on that. Ms. Hennings said that typically the groups of people allowed in the housing that the CDBG grant money was providing would have to be defined as a family the same as the City defined a family. She said that Mr. Guice would look into it more but she did not think that there were specific requirements for CDBG that would change that.

Mayor Kuykendall said that a homeowner could rent a house out to a family and he had to secure a license from the City and charge sales tax. He asked if a homeowner who rented rooms out to eight people, individually, would be subject to a city sales tax license and charging those room renters rent. Ms. Hennings said that any rental unit, whether by bedroom or house, had to pay into that 2%.

Mayor Kuykendall asked if there was a provision in place to identify the homes that were being used for rental purposes. Ms. Hennings said that she was not sure that there was a list. She said that concerning the disabled, they were not allowed to know specifically where people with disabilities were living.

Councilwoman Linn said that Project Aware was a nonprofit which had a different set of requirements for taxing. Mayor Kuykendall said that they were trying to figure out what portion of the rent was being charged for treatment and what was rent in the treatment centers. Ms. Hennings said that the treatment centers were not protected under this clause.

Councilman Blair said that the Federal Bureau of Indian Affairs moved eight people into a house in an upscale neighborhood which deteriorated the property values and created problems with the police and

neighborhood families, and he asked what would happen if the City decided not to follow the law. Ms. Hennings said that it was a police matter and not a zoning matter. If they met the family classification, the City could not deny them the right to live in that residence. She said that if they tried to deny them residence, lawsuits would be likely. She said that it happened in Sedona where they lost a lawsuit for not allowing a group home to locate in a single family neighborhood. They had to pay \$500,000 and let the home locate.

Councilman Blair asked if she thought that they may have to do something different in the future concerning that issue. Ms. Henning said that the controls came through the Department of Health Service and the police force. She said that zoning could not meet the social needs that he was talking about.

Councilman Hanna said that as long as they were mandated by the Federal Government; there was nothing they could do with something like that. Councilman Blair said that it seemed like they could live in Prescott Lakes and buy into a gated community, and have someone violate the way someone chose to live their life based on someone moving in a drug and alcohol rehabilitation house with no regard to what the property owners had to say about it.

Councilwoman Linn said that there were homes that housed eight people in hospice and within months of dying. She said that it was another aspect of it that was not drug and alcohol related.

Daniel Mattson said that he believed that if he tried to open a group home in Prescott Lakes the Homeowners Association would have something to say about it. Councilman Blair said that Federal Law superseded Homeowners Associations.

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

COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4786-1137; SECONDED BY COUNCILMAN LAMERSON; PASSED 6-1 WITH COUNCILMAN BLAIR CASTING THE DISSENTING VOTE.

IV. ADJOURNMENT

There being no further business to be discussed, the Regular Voting Meeting of March 22, 2011, adjourned at 4:49 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 22nd day of March, 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