

PRESCOTT CITY COUNCIL  
REGULAR VOTING MEETING  
TUESDAY, APRIL 12, 2011  
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on APRIL 12, 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:** Reverend Julia McKenna Johnson

Reverend Julia McKenna Johnson gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Lopas

Councilwoman Lopas 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

Absent:

\* Councilwoman Suttles

\* excused

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Mr. McConnell noted that the Prescott Sister City Association would be presenting a teacher from Fountain Hills High School and her students regarding a trip that the class will be taking to El Salvador to build a house on Friday, April 15, 2011. Councilwoman Linn encouraged everyone to attend.

## I. PROCLAMATIONS

- A. April 2011 as *Donate Life Month*

Councilwoman Lopas read the proclamation and presented it to the representatives for *Donate Life Month*.

- B. April 18 through May 20, 2011 as *Prescott's Bike Month*

Councilwoman Linn read the proclamation and presented it to the representatives for *Prescott's Bike Month*.

## II. PRESENTATION

- A. Presentation of Certificates of Appreciation to outgoing Board/Commission members.

Councilman Hanna presented certificates to volunteers Terry Marshall for the Planning and Zoning Commission and Calvin Fuchs for the Board of Adjustment.

## III. 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.**

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

- A. Approval of contract between the City of Prescott and Badger Roofing in an amount not to exceed \$29,448.78 for three residential roof replacements.
- B. Approval to repair and install City Hall roof substrate insulation and application of a high quality coating, and approve the bid of Central Basin Roofing in the amount of \$26,846.00 plus sales tax.
- C. Approval of Letter of Understanding with Craig McConnell as Acting City Manager.
- D. Approval of the minutes of the Prescott City Council Regular Meeting of March 22, 2011 and the Special Meeting of March 29, 2011.

#### IV. REGULAR AGENDA

- A. Appointment of Chairman to the Board of Adjustment.

Councilman Blair said that the selection was comprised of Councilman Hanna, Councilman Blair and Councilwoman Suttles who was recommending to appoint Mike Klein as the Chairman of the Board of Adjustment if the Council so desired.

**COUNCILWOMAN LINN MOVED TO APPOINT MIKE KLEIN AS CHAIRMAN OF THE BOARD OF ADJUSTMENT, TERM TO EXPIRE MARCH 2012; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

- B. Public Hearing and consideration of 2011 Draft Annual Action Plan for Community Development Block Grants (CDBG).

Ms. Hartman said that the item was for the approval of the Final Action Plan for 2011. She said that they held their first hearing on January 12, 2011, and they sent out over 760 postcards to neighborhoods. They received 10 requests for money. The majority of those requests were for public service and they had a cap of 15% for that. She said that they allocated their money as follows:

- ▶ West Yavapai Guidance Clinic - \$157,840
- ▶ The Center for Adult Day Care - \$30,000
- ▶ Community Home Repair - \$15,000
- ▶ Fair Housing - \$ 2,500
- ▶ Meals on Wheels - \$17,500
- ▶ Arizona Women's Education and Employment - \$15,000
- ▶ Community Legal Services - \$15,000
- ▶ Administrative Costs - \$334,800 (soft focus)

Councilman Lamerson asked if Community Legal Service was restricted for housing issues. Ms. Hartmann said yes.

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

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

- C. Discussion and direction to staff on process to use for City Manager selection.

Ms. Hadley noted that she had talked about the item in a Workshop the prior week. She noted that the current meeting would allow the public to have input. She said that staff put together something that would help the Council move forward. She showed an overhead that detailed information on five different firms that did professional searches. She said that the Human Resource Department did research on how much a partial recruitment would cost. The cost would be \$10,000 to \$16,000 depending on which firm was used.

She noted that a full recruitment would run about \$25,000. She said that one benefit was that they would guarantee their manager. If a manager quit within the first two years, they would recruit for free. She said that some firms would not do a partial recruitment because they did not think that it was fair to the applicant. She showed an outline of what full and partial recruitments entailed and showed the rough four page recruitment brochure that staff had created.

She noted that staff had questions that they needed answered with or without the use of a recruiting firm, those included:

- ◆ BASE SALARY
- ◆ BENEFITS
- ◆ CLOSING DATE RECRUITMENT
- ◆ COUNCIL SUBCOMMITTEE
- ◆ PUBLIC RECEPTION
- ◆ SPECIFIC PROJECT OR PRESENTATION BY FINAL APPLICANTS
- ◆ INTERVIEWING COSTS (FLIGHTS, HOTEL, MEALS)

She said that the City would have to go out for Requests for Qualifications. She also noted that any good recruiter would want to speak with each councilmember individually to see what they were looking for in a City Manager. She said that if they began the process immediately, they might have someone on board by August or September.

She asked for preference on a recruiting firm from the Council and said that staff was there to be of assistance to the Council and the public.

Councilwoman Lopas said that it was most important to involve the community in a committee selection. She noted that there were outstanding citizens who had experience in recruitment. She said that she would like a committee with three Council members and four citizens. Ms. Hadley asked if she would like that at the initial screening or at the community reception. Councilwoman Lopas said that she would like it for the top 20 candidates, for reviewing the applications. She noted that they did that at the college and it was very helpful.

Mayor Kuykendall verified that Councilwoman Lopas wanted three members from Council and that group would go to the public and solicit input from the public.

Daniel Mattson asked if the staff had decided not to do it in house. Councilwoman Lopas said that she thought they needed a professional firm because they would get people who were a good match.

Ms. Hadley said that Council directed staff to bring forward information on various firms. She said that it would be the Council's decision on which way they wanted to go

Dave Maurer, Prescott Chamber of Commerce, passed out a paper of recommendations. He said that his board members suggested the use of a search firm to advertise and recruit for the position, screen the candidates and provide the City with a list of viable candidates. Secondly, they said that the City should take the process and work with the local search committee as Councilwoman Lopas discussed and complete the interview process that way. He noted that the third point was to start the process as soon as possible.

Mayor Kuykendall asked how he thought the local citizen committee would be formed. Mr. Maurer said that a number of community groups would be grateful for the opportunity to provide input. Mayor Kuykendall asked if he was suggesting that each group select a person. Mr. Maurer said that there was an opportunity for those outside City Hall to provide input up front.

Mayor Kuykendall said that they were in the process of updating the General Plan. He asked if there would be value if the General Plan Committee would give input into how the manager might fit into that. Mr. Maurer said that he did not know how the timing would line up, but he thought that it would be appropriate.

Councilman Lamerson said that he agreed with Mr. Maurer's letter. He said that he was concerned that many times they remember the good times and did not look at what was real. He hoped that the folks from the community would be chosen with their eyes wide open with regards to some of the issues that the City had to deal with in Prescott, taking into consideration the restrictions on water and consider that construction was not providing sales tax. He thought that the public could be helpful.

Councilwoman Linn said that she also agreed with Mr. Maurer's letter.

Mayor Kuykendall noted that the Council had been successful with committees. He said that there was a three member Council committee that looked at committees, structure and intent. He said that they took applications from the public. He asked if it would be a reasonable approach for the hiring committee. Mr. Maurer said that it could be done that way. He said that the public should be involved all along the way and not just a reception at the end.

Councilman Hanna said that he understood that a search firm had a better ability to get names, but he did not want to spend money that they did not have. He said that he wanted to see what they could do in house and go to a search firm if it did not work. He said that there were enough people looking for jobs and wanting to come to Prescott.

Councilwoman Linn said that she was for hiring a search firm. She thought that it would be a good investment. She said that the firms knew what was going on all over the United States. She noted that the City staff had been cut so much, that it would be too much pressure on them. She did not want to go for the full search.

Councilman Blair said that he would support a hybrid plan not to exceed \$20,000. Councilman Lamerson said that Councilman Blair and Councilwoman Linn expressed his opinion.

Councilwoman Lopas said that she liked the hybrid approach and she wanted the community to be involved. She said that there was some extra money since they were not paying the City Manager's salary.

Mayor Kuykendall asked her if she still thought a three person Council group would work with Human Resources to move it forward. Councilwoman Lopas said yes. Mayor Kuykendall asked how they would decide to go out to the citizens. Councilwoman Lopas said that citizens should send in a letter of interest and state why the person felt he was qualified for the task. She said that all of the Council members should decide who would be on the committee.

Councilman Blair asked what the Human Resources Department needed from the Council. He asked to go through the bullet points again.

Councilwoman Linn said that she did not think they could do that unless they had the first motion on the floor; whether it was a hybrid, do not do anything or do a full recruitment. Ms. Hadley asked if it was a legal question. Councilwoman Linn said that she had been going through the Council Subcommittee and said that if they considered having three Council people and four members from the public, they would be appointing ten to twelve people. She said that was a huge committee and that she supported a committee of less than seven.

Ms. Hadley said that she did not think that they could discuss it after the motion had been made and voted on.

Mayor Kuykendall asked to see chart for partial or full recruitment.

Ms. Hadley said that it would be the Council's call on whether they wanted a search firm to work with them.

Councilman Blair said that they hired Mr. Norwood based on getting names from a search firm and then they relieved the firm of its duties. He said that was what he was looking for. Ms Hadley noted that last time they had Lloyd Harrell, who was the interim. She said that he did the search and he stayed and did the negotiations with Mr. Norwood. She also noted that they did not have staff that had been through the recruitment of a City Manager at that time. She said that they could take it to the final 20 and let them do reference checks on the top ten and let the Human Resources staff take it from there.

Mayor Kuykendall asked if the City would need an RFQ. Ms. Hadley said yes. Mayor Kuykendall said that if that was their motion and not trying to determine if it was hybrid or full, they would need to look at the ones that would offer the most services. Councilman Blair said that they should put a price on it.

**COUNCILMAN BLAIR MOVED TO GO OUT FOR AN RFQ NOT TO EXCEED \$20,000 FOR A SEARCH FIRM FOR THE SELECTION OF A NEW CITY MANAGER; SECONDED BY COUNCILWOMAN LINN; PASSED 5-1 WITH COUNCILMAN HANNA CASTING THE DISSENTING VOTE.**

- D. Approval of grant funding in the amount of \$30,000.00 with Prescott Area Arts and Humanities Council.

Mr. Prince said that in fiscal year 2009, the funding level for the Prescott Area Arts and Humanities Council (PAAHC) was budgeted at 7.5% of the bed tax which was \$51,000. He said that number was reduced to \$30,000 in fiscal year 2010 and \$30,000 was originally requested for fiscal year 2011, but was reduced to \$15,000. He said that the City recently received a check from the Prescott Chamber of Commerce for unused funds from the previous tourism and marketing organization Prescott Area Coalition for Tourism (PACT) in the amount of almost \$16,000. He recommended that they take \$15,000 and apply it to PAAHC to restore them back to the \$30,000 level. He noted that PAAHC had already gone through the grant funding procedure for the current fiscal year. He noted that Jon Meyer was there, from PAAHC, to go through their funding process.

Councilman Blair asked if they just determined that PACT money would automatically be given to PAAHC, or was that Mr. Prince's determination. Mr. Prince said that was his recommendation.

Jon Meyer, PAAHC Boardmember and Chairperson for the Grant Committee, noted that they were just asking for the initial \$15,000 and then the additional \$15,000 from PACT. He showed a PowerPoint presentation that covered:

- AMOUNT OF FUNDS REQUESTED
- WHAT THE ARTS CONTRIBUTE
- FUNDS BUDGETED
- HOW THE ARTS IMPACT PRESCOTT
- THE GRANT PROCESS
- THE GRANT PANELISTS
- PANELISTS RECOMMENDATIONS

Mayor Kuykendall asked if there was a relationship between the scoring and the money received. Mr. Meyer said yes, the higher the score, the more money they received. He said that they also took into account how much money was requested.

Councilwoman Lopas asked Mr. Prince if there was consideration of splitting up the money. She noted that they gave the Rodeo \$50,000 at

one point and they were down to \$15,000 last year, when \$20,000 was originally budgeted. She noted that they were bringing 60,000 people through their doors and she said that she did not feel that the City was being fair.

Mr. Prince said that the Rodeo and other organizations already had money assigned to them. He said that he looked at the original request for PAACH, which was \$30,000. He said that he looked at what events brought tourism to the City and what were the things that made Prescott special and unique and what contributed to their quality of life. He said that PAACH was set up by the Council to handle the requests and take that work out of the City's hands.

Councilwoman Lopas said that she was at the Bucky Awards and was fortunate enough to present the Lifetime Achievement Award to Jody Drake and that she was passionate about the arts. She said that she would like to see that money go a little further.

Councilman Hanna said that he appreciated the arts and wanted to know who brought in more money. He said that it would be unfair for the City to give one group all of the money. He said that they had not looked at the lakes that needed some work. He also said that the rodeo grounds were 365 days a year and they needed work. He said that he was not in favor of giving the \$15,000 to PAACH.

Mr. Prince said that there were contingency funds available. He said that they were doing all they could to promote all of the recreational opportunities. He said that the arts community was 365 days a year and the cultural heritage tourists stayed longer and spent more money than the other tourists.

Councilman Lamerson said that he remembered why the \$30,000 was reduced to \$15,000; it was for budgetary concerns. He said that the City still had the same concerns. He said that because they got a return on something that was not used, it did not mean that they had to spend the money. He said that the Council should have been approached before someone went out and made commitments, rather than debate it publicly.

Councilman Blair said that they should split the \$15,000 three ways; lakes, rodeo and the arts. He said that would be the best for tourism.

Cindy Gresser, President of PAAHC and Executive Director at the Smoki Museum, said that she enjoyed the lakes but pointed out that they did not publicize and advertise in areas outside of the community to draw tourists. She said that the resulting income that the arts brought into the City would pay for the lakes. She said that the Rodeo had a contingency fund

available to request from the City and the arts organizations did not. She said that the money would be going to 11 groups. She noted that the organizations struggled every day to put on events that would bring people to Prescott and get them back for more activities. She said that their funding was \$51,000 when times were good and they were all gone. She asked Council to help them and help the community.

Councilwoman Linn asked to be stepped through the process. She asked what accountability the non profits had to PAACH. Ms. Gresser said that final reports had to be submitted to PAAHC within 60 days to be able to ask for grant funds in the future. She said they asked for impact on the economy, how many people attended, and what type of advertising was done. She said that the Smoki Festival drew 2,500 people to the community.

Councilwoman Linn asked if PAACH required the grant recipients to be a 501(c)3. Ms. Gresser said yes. Mr. Meyer said that they asked for event budgets and overall budgets. Councilwoman Linn asked if they received copies of their finances from the IRS. Mr. Meyer said yes.

Councilman Lamerson said that he had no problem with what PAACH chose for recipients. He said that he did not like that Council was not approached first to ask what they thought should be done with the money. He said that the money should be put in abeyance.

Ms. Gresser said that she understood, but hoped that by spending an additional \$15,000, the City would see increased revenues in Bed Tax and Sales Tax.

Mr. Podracky said that the Council had to stay on the item and not talk about what they wanted to do with the money.

Mayor Kuykendall said that money was allocated to PAAHC in a prior time with no direction from the Council. He said that it did not bother him how they were going to use the money.

Daniel Mattson said that he agreed with Council Blair and Lamerson. He said that in these times some of the money should be put in reserves. He noted that it should be brought back to Council, whether to give them all of the money or just part of it.

Ms. Hadley said that the money was discussed a month ago in individual meetings and she did not get any objections. She said that she instructed Mr. Prince to move forward. She apologized if it was not clear. She said that she was for the rodeo grounds and Christmas tree lighting. She said that the Rodeo paid no rent to use the property and that had to have

some cash value. She said that the Council gave Mr. Norwood the approval to hire a Tourism Director because of his expertise and marketing skills and his ability to project return on investment. She said that he had been in the City almost a year and the bed taxes were up. She said that his experience told him that an investment in the arts would be the best return on the City's money. She said that the people would come to the rodeo whether it was advertised or not. She urged the Council to listen to the Tourism Director.

Councilwoman Lopas said that she voted to give PACT money for marketing dollars; she was uncomfortable that there was not further discussion about the money. She said that the money was intended for marketing dollars and now the proposal was something different. She said that she was not against the Arts and did not like rearranging monies.

Councilwoman Linn said that she remembered the meetings about the money. She said that her group did not have a question about the money. Councilman Lamerson thanked Ms. Hadley for standing up for her staff. He said that he just wished that it was clearer.

Councilman Hanna said that he wanted to take a closer look.

RE Wahl said that the rodeo was at one point in a year for a week. He said that the arts were 365 days a year. He said that the City needed to invest in the infrastructure of the town when they wanted to bring people in for the quality of life and the arts. He said that when people got to Prescott, they wanted art and it was the best bang for the buck. He noted that they are doing their part to make Prescott what it was known for. He said that he knew that times were tough. He noted that the City was going to spend \$20,000 to find a manager and the city was not paying for a manager at that point, so there was some extra money.

Mr. Meyer said that they were asking for approval of the initial \$15,000, which they really needed that day. He said that the other \$15,000 was another issue. Councilwoman Linn said that they just had the one item for \$30,000.

**COUNCILWOMAN LINN MOVED TO APPROVE GRANT FUNDING IN THE AMOUNT OF \$30,000 WITH PRESCOTT AREA ARTS AND HUMANITIES COUNCIL; SECONDED BY MAYOR KUYKENDALL; MOTION FAILED 2-5 WITH ALL BUT MAYOR KUYKENDALL AND COUNCILWOMAN LINN CASTING THE DISSENTING VOTES.**

E. Discussion of Community Garden Lease/License Agreement.

Mr. Smith said that they were looking for direction on whether they should enter into a lease or a license with the Community Garden.

Mr. Podracky said that it was published as a notice of intent to lease. He thought that it would be better to have a license. He said that a license was contractual and allowed someone to come on the land and do something that they may not have rights to do. He noted that a lease agreement provided both parties with wider latitude and that it was harder to get out of a lease agreement. He said that the community garden people were looking for a long term lease. He said that it was a policy decision for the Council as to what they wanted.

Councilman Hanna said that he hoped that it went through either way. He asked what Mr. Podracky recommended. Mr. Podracky said that they recommended a license agreement. He said that it would be a year to year agreement with a termination provision at will. He said that they had done lease agreements that they could live with, but they noticed a considerable amount of issues with those agreements.

Colleen Sorenson, Masters Student at Northern Arizona University (NAU), said that the Community Garden was her thesis project. She showed a PowerPoint presentation to show her intentions for the garden. She said that the land was at the north end of Granite Street in front of Arizona Public Service (APS).

Councilwoman Lopas asked if there was already some type of irrigation on the property. Ms. Sorenson said that it was about 10 years old. She noted that there was room for 70 plots. She said that the initial vision was an agricultural education site to teach children and people about conserving resources like rain water. She said that it was on the Greenways Trail and that it would be a thing of beauty. She said that they needed time and a year was not enough.

Councilwoman Linn asked about the liability on the property. Mr. Podracky said that the non profit would be responsible.

Mayor Kuykendall asked if she knew that it was in a floodplain. She said yes. Mayor Kuykendall said that people camped out in the area. He asked if her fencing was adequate.

Ray Coach, Board member of Community Gardens, said that community gardens were beneficial to the town they were in. He wanted a long term lease.

Councilman Lamerson asked what long term meant. Mr. Podracky said that they wanted a five year lease with an automatic renewal every year unless terminated. He said that The Community Garden wanted to build in a “for cause” termination. He noted that for the first three years the City could only cancel for cause and after two years, it could be cancelled without cause.

Councilman Blair asked if the cisterns were going to be above or below ground. Ms. Sorenson said that she did not know. Councilman Blair asked Mr. Podracky what legal position the City would be in if the area did flood. Mr. Podracky said that they would be okay.

Councilwoman Linn asked if the Community Garden would need to carry flood insurance. Mr. Podracky said that he would look into it. Councilman Blair said that he preferred a lease.

Councilman Lamerson said that his preference was to listen to Mr. Podracky and he said that the community garden was a good idea. He said that they would be taking an unsightly piece of dirt and turning it into something.

Councilman Blair said they should lease the land to Prescott College and let Prescott College lease it to the garden people and take the City out of the equation. Councilwoman Lopas noted that the City would still be leasing the land to someone.

Mr. Podracky said that if the Council was interested in a five year lease, he would look into that. He said that Risk would also look at the insurance requirements.

R E Wahl noted that it did take a long time to get the garden going and he supported a longer lease.

Councilwoman Linn asked if the City could get a yearly update on how the Community was doing. Ms. Sorenson said yes.

Mayor Kuykendall said that Mr. Podracky had his direction to look into a five year lease.

- F. Approval of Memorandum of Understanding with towing companies (towing policy).

Deputy Chief Reinhardt showed a PowerPoint Presentation for the Rotational Memorandum of Understanding which covered the following:

- OVERVIEW

- PROVIDER CONDUCT
- COMMUNITY COMPLAINTS
- MILEAGE
- FUEL SURCHARGE
- UNPAVED TERRAIN
- CLEAN UP FEE
- SUPPLIES USED
- FEE SCHEDULE
- RECOMMENDED ACTION

Councilman Hanna said that there seemed to be a miscommunication between all involved in the deal. He said that if they were happy, he was happy.

Mayor Kuykendall asked if the yard had to be within the City limits and was concerned with the taxes coming to the City. Deputy Chief Reinhardt said that it was a service and did get taxed.

Councilman Hanna said that they were looking at Forbing Park and that was why they looked at a distance instead of saying that they had to be within the City limits. Mayor Kuykendall said that the City had different zoning requirements than the County and there may be an advantage to being in the County.

Mr. Mattson said that there was no one representing people who might be towed at the meeting. He asked if the towing companies were required to take major credit cards. He noted that the driver or owner would have the right to determine the destination of the tow. Paying cash upon delivery could be a problem.

Mayor Kuykendall said that it was the Council's intent to have a member of the public at the meeting. Councilman Hanna said that he was sorry that Mr. Mattson was not at the meeting.

Acting City Manager McConnell left the meeting 5:17 P.M.

Councilman Hanna said that it was not up to the public to determine what the towing companies could charge. He said that they were in business to make a profit and they were not making a lot of profit. He noted that the filing fee was not just \$15 to go to Motor Vehicles Department. There was more discussion about the towing charges.

Acting City Manger McConnell returned to the meeting at 5:23 P.M.

Mr. Jenkins, American Towing, said that it was a pleasure working with the police department. He said that the towing companies charged according to what they did. He said that there was now a rate schedule where they could be asked why they charged one fee and not another. He said that ARS 28-4847 regulated that they could not charge during business hours to pick up personal items.

**COUNCILMAN HANNA MOVED TO ALLOW THE CHIEF OF POLICE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH TOWING COMPANIES FOR PURPOSES OF TOW REQUESTS BY MEMBERS OF THE PRESCOTT POLICE DEPARTMENT; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- G. Award of bid and contract for drilling of Airport Well #3 to Layne Christensen Company, Inc., in an amount not to exceed \$634,530.00.

Mr. Nietupski said that the well was within one mile of the City's recharge basin, which was a request of the Department of Water Resources. He said that a future contract would be presented to Council. He said that they were scheduled to commence work in May 2011 with a completion of August 2011. He said that it was budgeted in the Water Fund for Fiscal Year 2011.

Councilwoman Linn left the meeting at 5:31P.M.

**COUNCILMAN LAMERSON MOVED TO AWARD BID AND CONTRACT FOR DRILLING OF AIRPORT WELL #3 TO LAYNE CHRISTENSEN COMPANY, INC., IN AN AMOUNT NOT TO EXCEED \$634,530.00; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY**

- H. Award of bid and contract to Kenson Construction Company for the Water Warehouse Build Out Project at 1485 Sundog Ranch Road in an amount not to exceed \$203,131.00.

Mr. Nietupski said that this was the conclusion of the development of the water warehouse building. He said that the resources were not available to complete the personnel facilities that were the subject of this

improvement in 2007. He said that it would provide restroom and showers and lockers for the water department operations crews. He noted that the project was scheduled for April 2011 with a completion in August of 2011. He noted that it was a budgeted project for fiscal year 2011.

Councilwoman Linn returned to the meeting at 5:34 P.M.

**COUNCILMAN HANNA MOVED TO AWARD THE BID AND CONTRACT TO KENSON CONSTRUCTION COMPANY, INC., FOR THE WATER WAREHOUSE BUILD OUT PROJECT, IN AN AMOUNT NOT TO EXCEED \$203,131.00; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- I. Award of bid and contract for the Sundog Wastewater Treatment Plant Primary Digester Cleaning and Coating Project to Riley Industrial Services, Inc., in an amount not to exceed \$127,930.00.

Mr. Nietupski said that it was a scheduled maintenance activity for the primary digester. He said that any needed repairs would be done by Prescott City staff.

Mayor Kuykendall noted that they had been looking at Sundog a year ago and some money was needed to be spent there because they were having a lot of problems. He asked if this was one of the failures they had talked about. He asked if this brought them up to where they needed to be and asked if they were still at capacity. Mr. Nietupski said that this was a necessary maintenance activity. He said that the issue that he was referring to was the difficulties they had with their belt press. He said that there was a deteriorated facility out there. He noted that they did some interim improvements to maintain that. He noted that Sundog was near capacity, but it had more headroom in the near term than they had at the airport. He said that they were not inclined to recommend major capital improvements in the Sundog Facility in the way of adding to the treatment capabilities.

Mayor Kuykendall said that the County was in the process of building their juvenile facility which would go to the Sundog Plant. He asked how that would affect the plant. He asked if that would put the City in the position of having to deal with the problem since they could not move untreated sewage from Sundog to the airport. Mr. Nietupski said that they could not. He noted that in the Sundog area, they were in good shape as the timing of development had slowed.

Councilman Lamerson said that they were going to have to do something soon. Mr. Nietupski said that when they did the analysis for both facilities, they were both approaching capacity. He said that they needed to do

something at the airport sooner than at Sundog. Councilman Lamerson said that he wanted it to be loud and clear that there was a problem in the sewer treatment situation in that it would not be inexpensive. He said that there were some basic service issues that needed to be taken care of.

**COUNCILWOMAN LOPAS MOVED TO AWARD THE BID AND CONTRACT FOR THE SUNDOG WASTEWATER TREATMENT PLANT PRIMARY DIGESTER CLEANING AND COATING PROJECT TO RILEY INDUSTRIAL SERVICES, INC., IN AN AMOUNT NOT TO EXCEED \$127,930.00; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.**

- J. Authorization of payment to Qwest Corporation in the amount of \$23,129.84 for relocation of communication facilities along Clubhouse Drive and in the amount of \$259,951.36 for relocation of Qwest facilities along Williamson Valley Road.

Mr. Nietupski said that this item was to provide compensation to Qwest for relocation of their facilities outside the right of way and which were impacted by the Williamson Valley Road improvements. He said that it was the same circumstance at Clubhouse Drive.

**COUNCILMAN HANNA MOVED TO AUTHORIZE PAYMENT TO QWEST CORPORATION IN THE AMOUNT OF \$23,129.84 FOR RELOCATION OF COMMUNICATION FACILITIES ALONG CLUBHOUSE DRIVE AND IN THE AMOUNT OF \$259,951.36 FOR RELOCATION OF QWEST FACILITIES ALONG WILLIAMSON VALLEY ROAD; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- K. Award of bid and contract for the Penn Alley Sewer Replacement Project to A. Miner Contracting, Inc., in an amount not to exceed \$457,505.00, requiring Davis-Bacon wages.

Mr. Nietupski said that the contract would upgrade the sewer lane in the alley south of Gurley past Hillcrest Drive. He said that they would replace a 6" Main with a 10" Main. He said that they would employ pipe bursting technology. He noted that the work was scheduled for May 2011 to be completed in August of 2011. He said that it was a budgeted item for Fiscal Year 2011.

Councilman Lamerson said that he thought it was important for the citizens to know what it meant that the project would be funded through the Water Infrastructure Financing Authority (WIFA). He noted that the City was actually funding it and they would be using the WIFA financing tools. Mr. Nietupski said that the City would pay the entire cost of the

construction. He said that the Davis-Bacon wages were a requirement of the financing.

Councilman Hanna asked if there would be monthly reports to review. Mr. Nietupski said that the wage reports would be reviewed as required by the law.

**COUNCILMAN BLAIR MOVED TO AWARD THE BID AND CONTRACT FOR THE PENN ALLEY SEWER REPLACEMENT PROJECT TO A. MINER CONTRACTING, INC., IN AN AMOUNT NOT TO EXCEED \$457,505.00, REQUIRING DAVIS-BACON WAGES; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.**

- L. Adoption of Ordinance No. 4788-1139 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona (1) approving the form and authorizing the execution and delivery of an Extension to Series 2007 Ground Lease, a Series 2011 City Lease and certain other documents related to the purposes thereof; (2) approving the form and the execution and delivery by City of Prescott Municipal Property Corporation of such Extension to Ground Lease, such City Lease, a Third Supplement to Trust Indenture and certain other documents related to the purposes thereof; (3) approving the issuance of not to exceed \$10,000,00 aggregate principal amount of City of Prescott Municipal Property Corporation Revenue Bonds, Series 2011; (4) delegating to the Budget/Finance Director the authority to determine various terms with respect to the Series 2011 Bonds and the sale thereof; (5) authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this ordinance; and (6) declaring an emergency.

Mr. Woodfill noted that the item was the financing for the Williamson Valley Road project a month ago. He said that there was also a four year portion included for the golf carts. He said that the financing was through the Municipal Property Corporation (MPC). He noted that they looked at a private placement of the debt with local banks.

Mayor Kuykendall left the meeting at 5:50 P.M.

He said that in the past no bank had been willing to fix a term for 20 years. However, the banks said that they would probably be able to bid it so the City went out for a Request for Proposal (RFP) and received four bids. He said that Compass BBVA was the low bidder that the staff was recommending the Council consider. He said that the MPC Board reviewed them with the potential public placement of the bond and it was still a cheaper option to go with Compass BBVA. He noted that the MPC

Board approved the resolution and voted unanimously to move forward with it.

He noted that it was being issued through the MPC even though it was not necessarily a bond, but it was a bond. He said that the Ordinance authorized the extension of the existing ground lease the MPC had with the City. He said it authorized issuance of up to \$10,000,000 in MPC Revenue bonds. He said that it delegated the authority to complete the transaction, negotiate terms and enter into other contracts. He said that an emergency clause was attached because they were interested in locking in the rate.

Mayor Kuykendall returned to the meeting at 5:53 P.M.

Councilwoman Linn thanked the banks for bidding this. She said that it was a great rate.

Councilwoman Lopas thanked Jeff Hall and said that it was like a Public Private Partnership.

Councilman Lamerson said that he had a problem using streets funds on golf carts and he understood that it was handled differently. He wanted to make sure that it would not be paid off through the General Fund. Mr. Nietupski confirmed that the golf course would pay for the carts.

**COUNCILWOMAN LINN MOVED TO ADOPT ORDINANCE 4788-1139; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.**

- M. Approval of settlement of City of Prescott v. CVID Investments, L.L.C., and Chino Valley Irrigation District.

Mr. Podracky said that it was a quiet title action that had been in litigation for years. He said that in order to clear the title of the parcel that was located in the middle of the airport runway, which became problematic in 1941, regarding a legal description that was done erroneously. He noted that all parties would deed their ownership of the property back to the City in the form of a Quit Claim, without seeking attorney's fees and costs. He said that the staff recommended that the Council approve the proposed settlement.

Mayor Kuykendall thanked Mr. Chamberlain for making things go away.

**COUNCILMAN LAMERSON MOVED TO APPROVE SETTLEMENT OF CITY OF PRESCOTT V. CVID INVESTMENTS, L.L.C., AND CHINO VALLEY IRRIGATION DISTRICT AND AUTHORIZING THE CITY ATTORNEY AND THE MAYOR TO EXECUTE ALL DOCUMENTS**

**NECESSARY TO CLEAR TITLE IN THE CITY OF PRESCOTT'S NAME AND OWNERSHIP AND TO SETTLE THE LITIGATION, WITH ALL PARTIES TO BEAR THEIR OWN COSTS AND FEES; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.**

N. Recess into Executive Session.

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

The Prescott City Council recessed into Executive Session at 6:01 p.m.

#### **V. EXECUTIVE SESSION**

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

1. Kevin Greif v. City of Prescott
2. Patriot Disposal v. City of Prescott
3. Big Chino Water Ranch

The Prescott City council reconvened into Open Session at 8:00 p.m.

#### **VI. POST EXECUTIVE ACTION**

A. Possible action re Patriot Disposal v. City of Prescott.

No action was taken.

#### **VII. ADJOURNMENT**

There being no further business to be discussed, the Regular Voting Meeting of April 12, 2011, adjourned at 8: 03 p.m.

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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 12th day of April, 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