

PRESCOTT CITY COUNCIL
WORKSHOP
TUESDAY, MAY 3, 2011
PRESCOTT, ARIZONA

MINUTES OF THE PRESCOTT CITY COUNCIL WORKSHOP held on May 3, 2011 in the COUNCIL CHAMBERS located at 201 SOUTH CORTEZ, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the Workshop to order at 3:01 p.m.

- ◆ **PLEDGE OF ALLEGIANCE** Councilwoman Linn – introducing the posting of the Colors by members of American Legion Post 6

Councilwoman Linn introduced the American Legion Post 6 in presenting the Colors. Nicole Johnson, Miss Poppy, led the Council and audience in the Pledge of Allegiance.

- ◆ **INVOCATION** Church of the Nazarene

A representative of the Church of the Nazarene gave the invocation.

◆ **ROLL CALL:**

Present:

Absent:

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

None

WORKSHOP

I. **RECOGNITIONS**

- A. Recognition of Recipients of Special Olympics Medals.

Mayor Kuykendall recognized the First Place and Third Place winners of the Special Olympics Basketball Tournament. Their coach, Tim Velonis, thanked all the basketball players. He said they went to Mesa, Arizona

where they competed in the State competition for two days and they came home with the Gold and Bronze Medals. He then introduced the players.

Bronze Medalists:

Diane Velonis
Susan Taylor
Simeon Trotter
Tyson Webb
Tom Moore

Gold Medalists:

Chris Bell
Elliot Pritchard
Frank Brown

Logan and Matt were also Gold Medalists but could not attend today.

Coaches:

Becky Fox Weeks
Isaac Graham
Jim Phippens

He also thanked the many people who helped with the transportation, chaperones, and said it was a great weekend. He said they worked very hard for days and put one and half years into their effort. He mentioned the help of Linda and the coordinating efforts of Anna Turko from Northern Arizona.

- B. Presentation of First Place Award for SWANA Roll-Off Competition to Mark Johnson.

Mr. Chad McDowell said for the last five years the City of Prescott (City) has been part of SWANA, Solid Waste Association of Northern America, and part of the Arizona Chapter. He said this chapter incorporates most of the bigger cities and private haulers in the state.

He said every year SWANA conducts a rodeo where the City sends their drivers down there to see who the best of the best garbage collection drives are, men and women in the state of Arizona. Mr. McDowell said the SWANA Rodeo has been around since 1985 and it builds team building, friendly competition, promotes professionalism. He said the reason the City can get in is because of the operators they hire and not just anyone can participate. He said the qualifications include minimum of one year driving experience, no accidents, moving or traffic violations, good attendance record, good performance evaluations, and they cannot be abusers of sick time in order to attend this. Mr. McDowell said they go

through a written test, a driving test, and they have to go through a complete ADOT inspection. He said he gives credit to their crews for that one and that they aced the ADOT inspection.

Mr. McDowell presented a graphic illustration of the Rodeo-E-O Course and described the track. He said 75% of the people in the room could not get a car through the track. He said they had five competitors in this event and that some of the largest cities have only three competitors and there were about 100 competitors overall. He then recognized the City of Prescott competitors.

Automated Side Load Competition
Darlene Keeler

Front Load Competition
Leonard Castaneda
Lee Petersen
Bill Blevins

Roll-Off Competition
Mark Johnson, 2011 State Champion

Mr. McDowell said all five of the individuals are the pride of the City because they have the professionalism, knowledge, skill and they are the best of the best. He said some people wonder why the City of Prescott Solid Waste Division does so good and it is because they hire the best. He said for the City to have 15 operators and to enter five into the competition is huge.

Mr. McDowell presented Mark Johnson with First Place 2011 Roll-Off Competition Rodeo Award.

Mayor Kuykendall congratulated all of the competitors.

II. PUBLIC COMMENTS

A. Introduction of new businesses.

Dyan Jones, Sales Director with the Prescott Chamber of Commerce, introduced two new businesses in Prescott:

- ▶ Jeff Parker – Cairn Financial Services
- ▶ Steven Todd – Gold Buyers of Arizona, 703 E. Gurley

B. Presentation by members of American Legion Post 6 re activities.

Councilwoman Linn introduced Mr. Dan Tillman with the American Legion Post 6, an outstanding member who has volunteered decades for the Legion. She thanked him and all of the members for their service.

Mr. Tillman thanked the Mayor and the Council for the opportunity to let everyone know a little bit about Prescott's American Legion Post 6. He said Nicole Johnson was with him today and she is Miss Poppy for the American Legion Junior Auxiliary, making a presentation of Poppies to the City. He said they wanted no donations on this and they wanted her to be there to give the Mayor and the Council the first poppies for the kick off for the Poppy Season for the American Legion Auxiliary.

Mr. Tillman said to remember all the ladies, all the volunteers, the Legion Auxiliary volunteers, when they are out there on the streets during Memorial Day holiday weekend.

Mr. Tillman said this is the Auxiliary's major fundraiser for the year and it will start one week before the Memorial Day weekend. He said for people to reach into their pockets during the event and that all of the proceeds go to local veterans in assisting them with their everyday lives. He said American Legion Post 6 is very pleased to have at least three members of the City Council as members, Councilwoman Suttles, Councilwoman Linn, and Councilman Lamerson. He thanked them for their continued membership.

Mr. Tillman said as the Commander of Post 6 Honor Guard, they have been around Prescott for 16 years and the original groups consisted of five members. He said they currently have 20 members, 17 men and 3 women. He said they have veterans of WWII, Korea, Vietnam and Iraq. He said as the Honor Guard, their primary function is to provide military honors. He said military honors, as designated by the Department of Defense, consists of ceremonially folding a flag and presenting it to the next of kin and the rendering of taps. Mr. Tillman said as a veteran's service organization, the VFW can also participate if they have an Honor Guard group. He said they are authorized by the Department of Defense to perform the honors. He said in this capacity, this Honor Guard rendered service for 268 Veterans last year alone. He said as of May 3, 2011, they have already done 90. Mr. Tillman said they have occasionally done as many as six services in one day and they have always said they will do it.

Mr. Tillman said there are approximately 35 American Legion Honor Guard Groups in Arizona, but Post 6 has been named by American Legion Department as the #1 Honor Guard in this state for two consecutive years.

He said they work with active duty honors teams and they have calls from Army, Navy Marines, and Air Force. He said when active military does not have enough manpower they are out there. He said this is actually the primary reason why these honor guards are in existence because active duty does not have the money nor the manpower to provide military honors.

Mr. Tillman said the majority of their services are held at the Prescott National Cemetery and if anyone has not been there he suggests that everyone go visit it. He said this is a beautiful cemetery and there have been more than 1,000 veterans already placed in that wall since it opened in 2007. He said by direction from Congress there is never to be a cost to families for military honors and they adhere to that rule. Mr. Tillman said their income is primarily from honorariums received from veteran members who have passed away and they do a little bit of fundraising down at the Post. He said they do not receive any funding from the United States Government.

Mr. Tillman said Post 6 Color Guard has a strong commitment to the community. He said in the last year they have donated in excess of \$3,500 to local groups including the City of Prescott Police Department and Fire Department in scholarships primarily going to Prescott High School. He said at the VA Hospital the Veteran Service Department tracks their volunteer time and last year's submission exceed 6,000 hours. With the cooperation of local funeral homes, their unit has accepted the responsibility to properly dispose of worn and faded American flags. He said there is a proper way to do it and the Post will take them when they are received. He said to please remember that if anyone has one that needs to retire.

Mr. Tillman said they do not consider themselves to be a drill team or a parade team. He said they do two parades a year. He said they have led the Prescott Rodeo Days Parade for 14 years and the VA Hospital's Veterans Day Parade for 12 years. He said they provide uniformed squads to community groups such as the Alzheimer's Association, the Elks Club, Prescott softball tournaments, Prescott Valley Little League, Yavapai County Cemetery Association, and others. He said for special veterans' holidays such as Veterans Day and Memorial Day, they are generally out six or eight times a year minimum to go to the seniors' homes in the area, and visit the veterans that are residents to let them know they are not forgotten.

Mr. Tillman said they have logged more than 1,800 miles to the services last year. He said they have traveled as far north as Seligman and as far south as Congress where they have been asked to provide military

honors. He said their Color Guard has been present for events in Flagstaff, Wickenburg, and Scottsdale.

Mr. Tillman said he has been a member of the Honor Guard for 12 years and Commander for five years. He said he cannot say how extremely proud he is to be a part of the group and of the group in general. He said he thinks the whole community of Prescott should be proud of this group, as well. Mr. Tillman said largely due to the VA Hospital in town, Prescott has a large number of veterans in residence. He thanked the Mayor and Council for their continued support of the veterans and whatever can be done for them.

Mayor Kuykendall thanked Mr. Tillman.

C. Comments by Janine Tolly regarding Mothers Against Drunk Drivers (MADD).

Janine Tolly, MADD, said that she was in the process of working with Executive Director, Kelly Larkin, of MADD out of the Phoenix headquarters office. She said she has an office dedicated to do whatever she can to get the MADD office reinstated in Northern Arizona in her Prescott Valley home. She said she has worked with two City of Prescott Police Department officers, Sergeant Nathan Bartow and Sergeant Tim Fletcher and they have supported her. She said she also has support of State Senator Linda Gray and that it has been wonderful to work with her on some legislation.

Ms. Tolly said they will be meeting Thursday with Sue Weatherford who heads up TIP to work along side of her regarding the new Yavapai Self Help Line. She said this will help the residents of Prescott also and she hopes to get on their resource list for DUI victims or victim survivors from DUI fatalities.

Ms. Tolly said she works on both the preventative measure and to come along side as victim advocate. She said she is certified with MADD and has been going to court with victims and victim survivors. She said she does court monitoring and DUI court. She recently met with the judge who has indicated he is in agreement to send DUI offenders to the VIP in Prescott. Ms. Tolly said this will increase the amount going and finding out about the impact this has on victims and victim survivors.

She said she they have had such an outpouring of support from local businesses in terms of the mobile commands that are done for the DUI saturation patrols. She said she is very encouraged having come from California where she was a DUI victim two years ago to be in a place with support and encouragement and she thanks the community very much.

Ms. Tolly said she has victim cards to give out free of charge along with ribbons for antennas to remind them to get a designated driver.

Councilwoman Linn said she and Councilwoman Suttles were so impressed with her that they wanted to make sure that the community sees what she was trying to reinvent and bring back in a stronger way to the community. She thanked Sergeant Fletcher as well.

Ms. Tolly said MADD contact information is on the cards. She said these cards are not the ones she would give out to victims and victim survivors rather they are cards for law enforcement and the Mayor and Council. She thanked the Mayor and Council for the privilege and honor to speak.

- D. Presentation by members of the Suchitoto Sister City program re activities.

Mr. Bill Greninger said he was sure they were all aware of the honor that they have had since February 2010 when he had the privilege of taking an ambulance that was donated by the City of Prescott to their sister City in Suchitoto. He said that may seem like old news and that he was at the City Council meeting in October 2010 with a PowerPoint presentation highlighting their trip with his co-driver, Bill Makela. He said since that time their project was nominated for an award by Sister Cities International (SCI) and he is pleased to report to the Council that they were notified in the early part of this year that the Prescott - Suchitoto Sister City Chapter had won the humanitarian award for SCI for cities less than 100,000 people.

Mr. Greninger said this is a commendable feat and the second in a row for the Prescott – Suchitoto Committee and the third overall for the City of Prescott. He said one can tell there is a very active sister city program in the City and they were thrilled that the City supports them. He said the ambulance has been in full use since it was delivered last year and it not only runs around the city of 45,000 as the only ambulance but also takes the severely injured and ill from Suchitoto about an hour and a half to San Salvador. He said on behalf of the Sister City program he wanted to present the replica of the award that was presented to them for the City.

He presented the award to Mayor Kuykendall.

Mayor Kuykendall said on behalf of the City he accepted it with a lot of pride and they would make sure it is in the proper place.

Mr. Greninger said Mayor Martinez sent his regards and he looked forward to meeting everyone on his visit to Prescott in July.

Mr. Enrique Melendez, Honorary Consul General of El Salvador, said almost six years ago he stood there in front of the Chamber and presented the national colors of El Salvador to Mayor Rowle Simmons. He said if he remembered correctly he thought Councilman Blair was with them, Mayor Pro Tem Lamerson, and Councilwoman Suttles. He said he was there to present and thank the members of the current Council for all of the support they have given them. He congratulated the Council for accepting this prestigious international award. He said he knows many of them have been down there such as Councilwoman Lopas.

Mr. Melendez gave a special recognition to Mayor Kuykendall on behalf of Salvadoran Government, the Mayor of Prescott's Sister City of Suchitoto and its residents, for his outstanding efforts on securing the ambulance, which is used on a daily basis. He said without a doubt the entire project was successful through the leadership of a great lady and past Chairperson of the Prescott – Suchitoto Committee, an individual whose energy level was incomparable and dedication to community issues was the envy of many government officials, from the bottom of their hearts he thanked Councilwoman Linn.

Mr. Melendez also thanked the members of the Prescott – Suchitoto Committee including their newest members from the Embry Riddle Aeronautical University, also his good friends Bob Greninger and Bill Makela, who made it possible by driving the ambulance 5100 kilometers through dangerous drug cartel territory in Mexico and the jungles of Guatemala to finally arrive in cobble streets of Suchitoto.

Mr. Melendez presented the City Council and City with a challenge. He said he believed that after he is long gone the success of any Sister City program will lie upon the shoulder of their youth and their new ideas. He said a month from today 44 high school students from Fountain Hills High School and 15 chaperones will land on El Salvador's soil to spend 14 days and build 20 houses for their Sister City of Ataco whose residences were demolished due to flooding one and half years ago.

Mr. Melendez said the uniqueness of that project is that the City Council and Mayor have deeded the land where the houses are going to be built to the people, unprecedented in Latin American. He said that unprecedented, humanitarian mission by students who raised \$91,000 to pay for their travel expenses and the building of homes, can be duplicated in Prescott.

Mr. Melendez said the students had their pre-boarding meeting last Sunday; they are wonderful juniors and seniors, and the different colors of their clothing (in the photograph) indicated their different groups as organized by their teacher. He said they will be featured on Fox News next

week. He said their hope was that when they come back from the trip to send this whole adventure to Making a Difference, a program shown daily on NBC News.

Mr. Melendez said he respectfully asked for their commitment. He said they will start meeting with the school boards, the parents, and the community leaders. He said he leaves them with the warmest regards and deep respect from El Salvador, the western hemisphere's closest ally to the greatest country in the world, the United States of America.

Mayor Kuykendall thanked Mr. Melendez for the kind words and the work that he does.

III. PROCLAMATIONS

A. May 2011 as *Historic Preservation Month*

Councilwoman Suttles read the Proclamation for Arizona's Historic Preservation Month, May 2011, with the theme of Celebrating America's Treasures, and presented it to Ms. Elisabeth Ruffner.

Ms. Ruffner thanked Council and the Mayor for their continued support of preservation and said it was very obvious and important to the community, to the State of Arizona, and to the world. She said Prescott is known for the number of buildings listed in the national register and for their remarkable local ordinance which helps protect the property values.

Cat Moody said in honor Historic Preservation Month, working with Prescott Preservation Commission and the Historic Preservation Office, they are identifying historic properties that are well maintained for the stewardship and recent restoration projects of historic buildings in town will also be honored. She said they can look for that the end of the month.

B. May 1 – 7, 2011, as *Youth Week*

Councilwoman Lopas read the Proclamation for Youth Week May 1 – 7, 2011 as designated by the benevolent and protective Order of Elks to honor America's junior citizens for their accomplishments. She said that Prescott Elks Lodge 330 will sponsor an observance in tribute to the junior citizens of the community.

C. May 1 – 7, 2011, as *Public Service Recognition Week*

Councilwoman Linn read the Proclamation for Public Service Recognition Week, May 1 – 7, 2011, and presented it to Mr. Lee.

Mr. Lee thanked the Mayor and Council. He said they are members of the National Active and Retired Federal Employees (NARF); they have 247 members in the Prescott area and there is another chapter in Prescott Valley. He said they were honored today to accept the Proclamation in the name of all the public servants who are mentioned in the Proclamation. He said their organization, on the national level in addition to representing active and retired federal employees, also supports the Alzheimer's research program. Mr. Lee said since 1995 NARF has donated in excess of \$9 million of individually donated funds to the research program such that 100% goes toward Alzheimer research. He said public servants touch everybody's lives every day of the week and sometimes they are not recognized. He said this recognition is well deserved.

D. May 2 – 8, 2011, as *Prescott Highland Games Week*

Councilman Blair read the Proclamation for Prescott Highland Games Week, May 2 – 8, 2011. He said he was there last year and it was wonderful, and presented it to those present representing the Prescott Area Celtic Society.

President Gary Reed of Prescott Area Celtic Society thanked the Council and Debbie Horton for her hard work getting them straightened out. He said they thank the City and appreciate the opportunity to be recognized. He said they hope to have between 4,000 to 5,000 people at their event this year and hopefully it will make a dent in what they do and bring something to the community.

Mr. Reed said they have two events, one on Friday, May 6, from 5:00 p.m. to 9:00 p.m. in front of the movie theater in Prescott Valley in the Entertainment District and it was a free event. He said the other is on Saturday, May 7, at Watson Lake – Loch Watson – from 9 to 5 p.m. He said this year they have joined forces with Yavapai Food Bank and the Circle L Rescue. He said tickets are \$15 adults, \$12 military, seniors, students but if they bring a can of food or dog food they will get \$1 off the ticket price. Mr. Reed said children under 5 are free.

Mr. Reed presented a plaque to the City of Prescott in recognition of their support for the Highland Games this year.

E. May 8 – 14, 2011, as *Hospital Week*

Councilman Hanna read the Proclamation for Hospital Week, May 8 – 14, 2011, and presented it to a representative of Yavapai Regional Medical Center.

Councilman Hanna said his dad just got out of the hospital after spending five days at Yavapai Regional Medical Center, and he had the best care. He said he personally wanted to thank everyone over there.

The YRMC representative said that on behalf of the Board of Directors and Chief Executive Officer Tim Barnett who was unable to attend, his administrative team, the staff and the volunteers at the hospital they would like to thank the Mayor and the Council for the recognition, and for their support in allowing the hospital to provide the finest care in the area and helping them fulfill their vision in providing a total healing environment.

F. May 15 – 21, 2011, as *Police Week*

Councilman Lamerson read the Proclamation for Police Week, May 15 – 21, 2011, and presented it to Lt. Reinhart. He thanked each and every police officer and their families. He said there is nothing that citizens of the United States of America and the citizens of Prescott can say that will express the appreciation for who they are and what they do.

Lt. Andrew Reinhart thanked the Mayor and Council members, on behalf of Chief Kabbel, for the Proclamation. He said most importantly he would like to thank all of the men and women of the Prescott Police Department for their dedicated service. He said they could not be successful without the officers, support staff and their volunteers.

IV. DISCUSSION ITEMS

A. Legislative Update by Joe Brehm and Legislative Wrap-Up by Kevin DeMenna.

Mr. Brehm began his legislative update, noting that he had DeMenna and Associates with him as well. He said the Legislative session adjourned, Sine Die, and they did it in the 100 days they strive for. He said Prescott's own Andy Tobin is now Speaker of the House, which is a fantastic deal not only for District 1 but for rural communities around the Arizona. He said that later this month they will have all three of the District 1 folks at the Council meeting to discuss the legislative session and to thank them for their legislative service this year.

Mr. Brehm said as the Governor's deadline has passed they have had some action on their bills. He said the first one is the Fireworks Bill, which was vetoed by the Governor. He said it would have affected Yavapai and Coconino County because the use and sale of consumer fireworks would have been prohibited. He said this means Prescott will continue to use the ordinance already adopted by Council and they will look forward to more legislation of this type next year.

Mr. Brehm said SB1525, Impact Fee Bill, was a large and complex bill. He said they are still working with the League of Arizona Cities and Towns on exactly how to implement this. He said the League is working with a legal firm to draft a model ordinance to distribute to cities and towns so they can take the model ordinance, tweak it to make sure it fits this community and then they do not have to start from scratch.

Mr. Brehm said SB1322, Managed Competition Bill, would have forced the cities of Phoenix and Tucson to go out for open bidding for practically all of their departments. He said this bill did not affect smaller cities, although the sponsor had indicated that it was his full intention to make this bill apply in the future across the state regardless of its size. He then read a portion of the Governor's veto letter, which emphasizes local control and decision making at the local level:

City councils currently have an ability to outsource and they do that when they determine it is in the best interest of the taxpayer. While I agree that all levels of government must continue to find ways to cut costs I am becoming increasingly concerned that many bills introduced this session micro manage decisions best made at the local level. What happened to the conservative belief that the most effective, responsible, and responsive government is the government closest to the people? The citizens of Phoenix and Tucson form the government and adopted a charter to guide it. This legislation erodes the ability of the voters to receive services from the government they themselves formed with the responsiveness and accountability from the officials they themselves elected at the local level. These shortcomings will surely result in unintended consequences to the taxpayer that this very bill declares to be protecting.

*Sincerely, Janice K. Brewer
Governor*

Acting City Manager Craig McConnell said just to be clear the Governor vetoed that bill.

Mr. Brehm said as with most legislation they can expect to see some form of this coming back. He said for right now it is back to the drawing board. He said hopefully they can continue to work with the sponsor of this bill and see if they can come to an amenable agreement on the desire he had intended.

Mr. Brehm said they are expecting a few topics to be possible special session callings. He said one of them is the State Employee Merit System. He said they expect the Governor might call a special session to

address this issue and possibly to disband it. He said this would not have an affect on municipal employees, rather on state ones. He said they are also expecting the Governor to call a special session in the future to deal with ACCCHS cuts. He said there are several groups that are proposing a lawsuit so the Governor will most likely call a special session to deal with the ramifications and to deal with the payment of the defense. He said finally, there will possibly be an IRS conformity session as the Governor had some bills on making the Arizona Tax Code model closer to the IRS Tax Code, however some last minute amendments were put on to that bill and it was vetoed by the Governor because of the amendments.

Mr. Brehm introduced the DeMenna Team, Kevin and Ryan DeMenna, natives of Prescott. He said they have been great this session for him to call and ask advice of them. He said they have a lot of experience and a great reputation down at the legislature as he has found out. He said they have been a great resource for him and being relatively new to the legislative game he found himself swimming in some deep seas and he wants to thank them.

Mr. Kevin DeMenna said he was a graduate of Lincoln Elementary, Mile High Middle School, and Prescott High School so it was good to be there. He recognize Joe Brehm for the weekly calls and sometimes more often than that and then Ryan DeMenna who works closely with him. He said this is one of the quickest sessions that he has seen in a long, long time. He said they met their schedule. He said he is also a believer that making law as a sprint is not necessarily a good idea. He said it maybe deserves a more deliberative approach and he thinks it is important to share with the Mayor and Council that these numbers are just a snippet.

Mr. DeMenna said in the last 10 years 1350 bills were introduced in the last session and that ten years ago 1200 bills, closer to 1300 bills were introduced. He said over that same period of time the numbers are almost identical. He said the Governor vetoed 29 last time and 10 years ago with a different governor there were 28 vetoes.

Mr. DeMenna said that over time, over the last 25 years almost one third of the bills become law, which is pretty scary. He said this does not mean that if three bills are introduced one will become law. He said the State has doubled, the internet has been invented, and all of that has occurred and we have a state that is still running at a pace in lawmaking and deliberation that is going even faster than it used to go.



Mr. DeMenna said regarding the budget, which has really hit the state hard, in many respects local government has been spared. He said this year they ended up with budget of \$9.28 billion, which is their baseline spending. He said revenues are \$8.3 billion and noticeable is a disparity in

the math. He said he will not go through all of the differences but fund transfers - \$65 million; school rollover - up to \$245 million. He said the good part is they do pay interest once they pay back the next fiscal year.

He said the structural imbalance remains in place. He said by his measure they have a hole that will take probably 15-20 years to dig out of. He said the lottery is his favorite example, and 90% of what comes in proceeds is dedicated to bond service (revenue bonds) that were used in one fiscal year to pay expenses for that fiscal year, kind of like bonding for groceries. He said they had a very Republican Legislature, which is different than a very conservative Legislature but it is very Republican.

Mr. DeMenna said the midterm elections were favored Republicans across the country for a variety of reasons. He said these are the things that will be seen in the future: redistricting. He said the City is blessed to have someone like Andy Tobin as Speaker. He said they had the opportunity to meet with him briefly and he is very level headed, for example when he speaks about some of the issues the Governor has seen fit to veto, as with fireworks. Mr. DeMenna said they will not have the same Legislative districts or congressional districts. He said when Jon Kyl resigned the cascading effects include people who are leaving school boards to run for offices.

Mr. DeMenna said through all of this they had 1350 bills introduced. He said that there were 32 hours from when they got their bootleg copy of the budget to when it went to the Governor. He said it is very difficult for any agency or constituency to have an impact. He said throughout the period there were hearings, there were small group meetings, which try to develop consensus. He said consensus is in the House he believes and all but one of the budget bills got 40 votes and there are 40 Republicans in the House, 60 members total. He said he is not aware of any items that changed. He said it is partisanship and the order of the day.

Mr. DeMenna said out of those 1350 bills, they named the Colt Action Army Revolver as the State's handgun. He said they managed to freeze ACCCHS enrollment, managed to send some gun bills up to the Governor, which were vetoed. He said they had a few scandals, the Fiesta Bowl will never be the same and Senator Scott Bungaard's life will never be the same.

Mr. DeMenna said what they saw defeated this year, next year the citizens' lives will never be the same. He said he continues to believe over history that they have exhausted virtually every gimmick. He said they found a few new ones that the staff as members of the State Retirement System will notice, staff now contributes 53% and the government contribute 47%. He said this bill that was referenced where everything had

to be outsourced he had no idea as he read through that bill exactly what was to be outsourced but the bill will be back

He said the fireworks bill will be back. He said Jack DeBolske, who was the head of the League of Cities and Towns for 40 years, said all the time the government above you is bad and the government beneath you needs watching constantly. He said the legislative view is that local governments need watching and regular attention, and expects that next session local government will receive more attention and more of the same. Mr. DeMenna said for all of the legislation that was passed generally it becomes effective July 20 and he said he is sure they are all looking forward to that day.

Councilwoman Linn said one she wants to mention that is going to impact the youth is JTED. She said they get state funding at 1.25% and that was cut. She said within two years went they went from zero kids taking courses such as auto mechanics, jet mechanics, to 2500 kids. She said that within 10 hours the Governor slashed that, which means just within Yavapai County there are 1,000 students less in JTED programs.

Councilwoman Linn said the biggest question she has is the bill that was passed into law regarding the Fairgrounds property and treating it as a commercial entity. She said she read in the Arizona Republic that bill would also impact the veterans, VFW's, American Legions because according to the article they are fundraising saloons. She asked if Mr. DeMenna has any comment on that.

Mr. DeMenna said he thinks the bill is SB1186 and they are looking at it. He said the bottom line is, if it does what they think it does, it will have a substantial impact on the property tax bill for the Fairgrounds and it will be much larger.

Councilwoman Linn said someone attached an amendment for private schools at the very end and that is why she vetoed it. She read that was possibly a piece of legislation that would come forward with a special session. She said that would hugely impact their Fairgrounds but what concerns her even more is the impact on the VFW's and American Legions because they said in the Arizona Republic article the bill would impact them as well and they would have to be zoned commercial.

Mr. DeMenna said what he believes happened is that the tax corrections bill, which they have a germaneness requirement in the Constitution that bills subjects have to be with like subjects, and the tax corrections bill is just that. He said it corrects just about every mistake and is germane to just about every part of tax code. He said he believes it was intended to resolve a problem and because it was a vetoed due to other amendments

that made it on the bill such as the Student Tuition Organization. Mr. DeMenna said for the reasons that these were simply corrections and one man's corrections are another man's law. He said he and Mr. Brehm will work on this to see if that is going to be a special session.

Mr. Brehm said if this subject does come back as special session item they will be in contact with their representatives from District 1, especially Mr. Tobin. He said as he previously mentioned that bill started as one thing and had several things added to it that the Governor could not agree with. He said while she agreed with the principal issue of the bill it was the amendments that caused her some angst to veto the bill. He said if they do see these provisions come back during a special session they will be on top of it and they will be working with Mr. Tobin.

Mr. DeMenna said his colleague reminds him that this was at the 11th hour. He said the amendment that went on was done in what is called a conference committee, which is just that with no notices required. He said whether someone is a good lobbyist or a bad lobbyist a lot of things can happen.

Councilman Lamerson thanked Mr. DeMenna for coming up. He said he particularly enjoyed the profile and feels very comfortable with his level of education and knowing that he is a product of public education. He said most importantly and because of that he asked him, as one of the City's lobbyists advocating at their request and benefit, how he would propose digging out of a hole planning to spend in excess of \$1billion more than what is coming in as revenue and standing there telling the public they are going to balance the budget as required by the constitution.

Mr. DeMenna said he only has two answers – cut spending or raise revenues. Councilman Lamerson asked what raise revenues infers. Mr. DeMenna said that is a longer version of the word tax.

Councilman Lamerson said that is what a bureaucrat would use as a definition. He said there are other ways to raise revenue without necessarily raising taxes, maybe leveraging public property a little better than it is being used today. He said some of the things the legislature has done was close on and off ramps when they could have leased it out to private sector businesses having restaurants and bathrooms on the highway system rather than taking millions of dollars worth of real estate and shutting it up does not make a whole lot of sense. He said he just wanted to share some of his thought process with Mr. DeMenna as he goes down there and lobbies with their legislators.

Councilwoman Suttles said she thought his initial run was to handle water issues. She asked him to tell this Council where they were with water and what exactly got achieved in this session that will help the City of Prescott.

Mr. DeMenna said he was wondering if that was going to come up. He said the answer is absolutely nothing. He said the Legislature did absolutely nothing to alter, shake, or in any way impact the agreement. He said he would like to think that, in part, that was because they had good minds and that is what was understood this would not be a simple matter to just send in SRP's folks and have it be reversed or altered. He said that is a round about way of patting the City on the back.

Mr. DeMenna said there are other issues that are bureaucratic in nature. He said they are working to a degree with the congressional delegation. He said the USGS has issued a draft report, which is planting seeds that they will see how far they grow and trying to make that a nonissue. He said at this stage, it remains a nonissue and that there is not a legislator or a bureaucrat in state government that raised this issue. Mr. DeMenna said it is in the preliminary stages but they are also in contact with Rita Pearce (Maguire) just making sure that all that can be done is done and frankly their job is to look like an obstacle should someone try to make changes. He said they spent quite a few hours on the phone following that report as it was developed.

Councilwoman Suttles asked what the City of Prescott should look at from this last year. She said because they have him down there the City is getting a little bit more of hands on. She said they know there are cuts, they see the numbers, and they are struggling as to what the City and community can do. She said normally they are about two years in advance as to where the funding and revenue are going to finally start coming in. She asked if there is anything that the legislature has done to get the City ready for that.

Mr. DeMenna said he would argue that cities and town got off light this year. He said that will not last forever and they are headed for what he calls the push down effect. He said when they are through with gimmicks and pretty much all the creative thinking eventually they are going to shift enough responsibility. He said whether it be to schools, cities or to counties where they will have to make the tough choices.

He said City of Phoenix has not had a sales tax on food since anyone can remember and it does now and that is what he calls the push down effect. He said in this session there was very little of that and the general feeling is they got off pretty light. He said as time goes by they are going to run out of lotteries to mortgage and as those gimmicks expire watch for the push down effect. He said they might mention that to the speaker when

they see next, Speaker Tobin. He said they need to bring more sunshine into this process. He said budgets that are developed behind closed doors that are brought out in late hours and that is very difficult for all the cities and towns around Arizona. He said think of the impact they could have if they knew just a little bit more in advance of what was being done. He said that is by design.

Councilwoman Linn said she is probably the only one in the room who teaches and substitute teaches. She said she has seen the impact on education in the City and she knows they have to cut somewhere. She said the children now are using what used to be a nurse in the school as a primary physician and they are not even nurses anymore.

She said just in the one day with 27 first graders she had five that went to the nurse's office and the nurse was not even a nurse. She said as a push back what they are going to see as people say cut education is that those ancillary services are not considered classroom. She said she sees that as ACCCHS patients go to the emergency rooms more and they are going to use the ancillary services such as school nurses, who are not nurses anymore as she said previously.

Councilman Hanna said it is good to see Prescotttonians back in Prescott. He said they listen and read everything that is going on and he has to ask himself if they are ever going to learn to live within their budget.

Mr. DeMenna said many would have them believe they are at a crossroads for instance with the advent of the Tea Party, and he knows they are upset with fiscal issues but there are other elements as well. He said he thinks they have been at the crossroads and he is not particularly optimistic but at some point Arizona, state, local, and federal governments will begin to have to make decisions.

He said the bureaucratic term of how much they want to take out of the economy and what level of services do they want to provide and that equilibrium is being thrust upon them. He said Arizona is still spending more than it brings in revenues and that is not sustainable. He said build more houses, more migration, build more cars, and have the Chinese sell back bonds at less than they paid. He said that is kind of a global answer to what was really a global question.

Councilman Hanna said the reason he asked is that this is not something that is new, that is has been going on for 20 – 25 years. He said they have become apathetic to their attitude because it has not affected their lives but now that it has, like the mention of the Tea Party, there are a lot of good ideas out there. He asked if as a state will they ever get back to where common sense is going to dictate to the American public that if

they do not have it they do not buy it. He asked if Mr. DeMenna sees that down there and as they pass more bills they get rid of others because they are just overregulated on everything they do and they are not allowing the public to take care of the problem themselves. Rather, they are just being mandated through the legislature but there is no common sense in it. He asked if they are ever going to get back to the point where that is going to be the norm.

Mr. DeMenna said no. He said he thinks it is difficult to envision the founding fathers, the constitutional framers of 100 years ago were not expecting the internet, they were not expecting the responsibilities that have been thrust on local and state governments. He said he believes they will achieve equilibrium. He said at some stage teachers and parents will become angry enough that perhaps they will go out and initiate increased taxes.

He said those who want smaller government will become angry enough to where they will go out and start initiating the opposite. He said that equilibrium will arrive and will probably occur in his son's lifetime but probably not while they were on the Council. He said it is a troubling situation and the mandates to city councils and that is where the rubber meets the roads.

Councilman Blair said as he hears and understands what is being said they as a Council in Prescott, Arizona need to live by our own means and quit weighing on the federal or state governments. He said the City needs to live and be secure with their own finances is probably the best thing they could do right now and asked if that was a fair statement.

Mr. DeMenna said he would like to believe so. He said what he has also seen is governments that live within their means and that are doing the very best they can. He said apparently there must be some fat there because they have managed their way through this crisis.

Councilman Blair said when they look at a budget and ask what the state was going to give them and if they know automatically the state is going to give them \$500,000 they are going to find a way to spend that money. He said it is probably a benefit to the community to do it and it is probably going to take longer to get where they need to go.

He said the state has not been responsible with some of the things they have brought forward. He said one example is when his driver's license is good for 15 or 20 years and he is not reexamined with a fee that goes along with that that driver's license they are missing the boat somewhere not only for public safety but also generating revenue for the State of Arizona. He said at some point in time someone has to look at those

things that somebody instituted awhile back and ask if they worked or were they failing them. He said if they were failing them then they need to make corrections and so often government says lets try it this way and if it does not work they will change it but they never go back and revisit it.

Mr. DeMenna said in closing, he has thoroughly enjoyed listening to the diversity on the City Council because it reflects what they hear at the Legislature and remember it is a board of directors of 90. He said they have a chief executive of one and it is very difficult to get that system to work. He said at the same time, they are regulating cosmetologists, CPA's, and heaven knows what.

Councilman Blair said the aggravation is to see the State of Arizona in one area that he is familiar with – animal husbandry at the University of Arizona – in direct competition with private enterprise in the State of Arizona by selling meat on the open market, using free labor and all these different things to teach with and raise funds for their own university but they are undercutting the market as well so there is not a free enterprise when it comes to the State of Arizona.

Councilwoman Linn said one of the first things this Council did was to go through all of their Boards and Commissions, revamped the whole process making it more efficient, and cut as many as they could. She said when she worked down in Governor Hull's administration she was amazed by the boards and commissions and one is still in existence and there are hundreds of them. She said one is the Iceberg Lettuce Board. She said for every board and commission at the state level they have to have a staff person to run it and that is one area they need to look at.

Mr. DeMenna said it is the Iceberg Lettuce Council and it has been through sunset review and it has been determined to worthy of continuation by somebody who grows iceberg lettuce.

Councilman Lamerson thanked them for coming up just before their budget process. He said people need to hear that they need to live within their means and have a safe trip home.

B. Discussion of Proposition 401 Implementation.

Mr. McConnell said it was a workshop presentation today regarding the implementation of Proposition 401, which is the Tax Payer Initiative (TPI). He said there is a handout on the table and it consists of copy of the agenda item, a copy of the City of Prescott Charter, Article VI Section 16, which is the TPI and also includes some draft materials prepared by Mr. David Pennarts office.

He said this particular TPI is a matter of law and the workshop today is the first step in the public process. He said during that public process they will be looking at different aspects and issues regarding the TPI leading to Council consideration of a resolution setting forth the implementation policy and procedures.

Mr. McConnell said Mr. David Pennarts is from the law firm of Gust Rosenfeld and because of the various issues regarding the TPI and the need to get outside legal advice to independently fashion a resolution to provide a resource and format for implementation explains why the City through the City Attorney's office went to this outside law firm. He said Mr. Pennarts will be providing an introductory briefing today in the form of a PowerPoint Presentation and the Council may have a few questions during or after that but it really sets the stage for a subsequent workshop after they have all had an opportunity to think about and digest some of the complexity that is involved. He said that second workshop could have the opportunity for Council discussion and public input, leading to another opportunity on a subsequent Council Agenda to consider a resolution.

Mr. Pennarts said he has a PowerPoint Presentation that will walk them through some of the basics of Proposition 401. He said the Proposition was passed under power of initiative and the initiative power is reserved to the citizens in equal measure to the legislative power that the Council has. He said anything that the Council could legislate on, the citizens can legislate on directly through the power of the initiative, including charter amendments. He said the charter amendment in this case went to the ballot as Proposition 401 on the general election held on November 3, 2009 and became Article VI, Section 16 of this City Charter. He said walking people through the background he would like to go through a couple of the key provisions in the Proposition.

Mr. Pennarts said there is a special provision in the Constitution (State Law) about when charter amendments become effective. He said charter amendments, whether they are passed by the Council or passed by the voters, become effective immediately upon approval by the Governor but only then. He said this was passed in November 2009 and Governor Brewer approved the Charter Amendment on January 25, 2010, and delivered a copy to the Secretary of State on that date and that becomes the effective date of the Charter Amendment.

Mr. Pennarts said the key provision of Proposition 401 is that it will require approval by the voters through a ballot measure referred by the City for the City to enter into agreement or agreements for certain purposes with certain exclusions, if they relate to a single project with a project value of \$40 million or more.

Mr. Pennarts said one of the key things in looking at the Proposition, the TPI, and applying it is 'is this what we are talking about?' He said if it is then is it for one of the specified purposes but not within one of the exclusions. He said obviously if it was within one of the exclusions then it is not subject to a voter approval requirement. He asked if it will result in a project value of \$40 million or more and they will talk about how that is a cumulative number in a few minutes. He said as it is structured all of those things have to be true or the voter approval does not apply and expenditure will be made in the normal course of how the Council does business.

Mr. Pennarts said the Single Project Provision, is actually a single project or a group of related activities that come within the definition of project. He said the aspect of being a Single Project or a unitary project is a key concept that they find in three different places in Proposition 401. He said in the text of Definition, it defines a project to include a group of related activities for the purpose of performing a discreet function. He said it is not a whole variety of functions, it is a discreet function.

Mr. Pennarts said the design or construction of a single physical facility or complex is another part of the definition of a project; also a contract relating to a Single Project, so Single Project is a term that is used in Proposition 401. He said when taken together they lead to the conclusion that when they are applying this \$40 million dollar test they are looking at an expenditure or expenditures they must be so interrelated that those things are true. He said if that is not true they are less likely to be considered a Single Project for purposes of application of the initiative.

Mr. Pennarts said there is the concept of what is the project value. He said it does not say cost because the project value can be reached not only by expenditure, it can be reached by amount of contractual obligation, it can be reached by amount of an asset transfer, so it is not strictly what a check has been written for or what they will get a bill for. He said that is why the term project value has been used as opposed to Project Cost. He said of course it is the City's share as opposed to if they have a joint project with another city and the whole project is over the \$40 million amount but the City's share is of the expenditures and obligations is less than \$40 million then they have not triggered application of the voter approval requirement. Mr. Pennarts said the \$40 million has a Consumer Price Index adjustment to it that starts this year in 2011. He said in arriving at what the project value is and calculating the \$40 million it does include the first five years of the operating expenses of the project but other than that it does not include operation expenses.

Mr. Pennarts said to determine the project value the proposed new or additional contract or expenditure, according to the text of Proposition

401, gets combined or aggregated with previous total expenditures on what has been identified as the project. He said if it is a project that is already in progress and they are trying to figure out if it is going to reach the \$40 million amount there is this aggregation component to it of adding past expenditures with future expenditures to figure out whether the \$40 million is going to be reached. He said that raises some legal questions of potential retroactivity that he would talk about in a moment but it is part of the definition of project value.

Mr. Pennarts said there is a legal question, therefore, whether it subjects existing projects and expenditures made under existing contractual commitments to the new requirement. He said there are Constitutional provisions at play that go into that. He said at least on the face of it, it would appear to have the effect of applying to some existing projects to amass \$40 million and trigger the voter approval requirement.

He said if it is to be applied to an existing project they therefore could have a situation where the Council would be considering letting a contract on a bid for some phase of the work. He said if that is all part of an overall project and there has already been close to \$40 million spent and the amount of that contract before the Council if aggregated to the rest of it and tip it over to the \$40 millions they could have a relatively small contract in front of them that would trigger the requirement because it would take the cumulative amount to the \$40 million amount. He said to think of this as only applying to contracts of \$40 million or more would not take into account it is a cumulative total.

Mr. Pennarts said if it is applied that way and if the voters failed to give approval then it raises the prospect of what happens to the ongoing project, whether it was still viable, and whether that would trigger lawsuits and claims against the City. He said those are real concerns out of this and he was not saying it would but they certainly cannot rule that out given the aggregation provision in the Proposition.

Mr. Pennarts said Proposition 401 is in effect as of January 25 of last year and it applies now if something comes before the Council that would meet the \$40 million requirement and the definition of a project. He said he has done a lot of initiative law and almost every initiative he has read has ambiguities and frankly most of the bills in the Legislature he has read have ambiguities in them and it is the nature of the beast.

He said there is a definition in Proposition 401 as to what a project is, but there is a lot of play in there as to how that would be applied to specific facts. He asked what would constitute a Project, what would be its own project verses have to be accumulated with something else as part of a single combined project. He said those sorts of things involve some

ambiguities frankly in the Proposition and that he has written legislation so he is not casting stones because it is not easy. He said when they look at it there are some questions and they raise legal questions because if not applied properly then they are not giving affect to it or giving more affect than it truly has.

Mr. Pennarts said the same can be true in his mind because of the aggregation issue as to what expenditures must be counted as part of a single project when it would place the \$40 million over the threshold. He said when they combine some ambiguities in what is a project with how the project value is defined the holes are additive and that is true in any contract or piece of legislation.

Mr. Pennarts said the City needs to implement this and in a way that fulfills its purposes, but also that is legal and constitutional. He said this potentially goes back years into the past and it is not clear how they are going to make some these determinations.

He said part of what they are doing is looking at is first of all the issue of whether Proposition 401 is retroactive or not. He said the statement has been made by the proponent community it is not retroactive and he said he agrees with them from a legal standpoint. He said state law is absolutely clear that any piece of legislation that is going to be retroactive has to say it is retroactive and has to state it specifically in the document. He said this does not say that neither does it have a retroactive effective date. He said it is not legally retroactive on its face in terms of when it goes into effect; it is prospective only from January 25, 2010. He said, however, they have those aggregation issues so they cannot ignore those but they cannot do it in a way that violates the law by making something retroactive that is not. He said there is a tension there that is not completely answered in Proposition 401. He said that potentially raises legal questions that someone could use to try to challenge it if it is applied in a way they feel is too expansive or should not be applied to something already in place.

Mr. Pennarts said it applies to things that occurred in the past but that the Council has to vote on them again. He asked what kind of vote and said it could be a major policy vote, the next contract, or possibly every year the Council adopts the city budget with a CIP in it, which is a council vote. He said it is not clear at all. He said regarding the Constitutional Provision both the United States of America Constitution and the Arizona Constitution prohibit any legislative body from passing a law that impairs the obligation of contracts. He said if they apply Proposition 401 retroactively in a way that impairs existing contracts then it would violate the Constitution.

Mr. Pennarts said one big question people raise is whether it applies to Big Chino and he is not answering that today because they have not done that analysis and the City Council has not been faced with that question. He said he will acknowledge, as he thinks the proponents of the political committee acknowledge, there is a legal issue about that because of the aggregation issue. He said it is not retroactive, yet the question remains if it affects Big Chino enough to violate the Constitutional prohibition against impairing obligations of a contract.

He said obviously the Big Chino contract was entered into before Proposition 401 was passed in 2009; it was adopted on December 4, 2004, and if that was legislative in nature there was a referendum period at that time, which was not utilized apparently. He said if it applies to that contract Prescott has legal obligations to design, construct, and operate a system and supply project water to Prescott Valley annually. He said there would at least be some difficulties faced and doing that if there are uncertainties about whether the City can perform under the contract because of Proposition 401. He said again it may or may not apply to Big Chino and he does not know.

Mr. Pennarts said one of the things they have done today was to propose at least the first draft of an implementing resolution. He said the Council has used implementing resolutions in the past with regard to voter initiatives to give direction to staff on how to implement these things. He said this is a prime example of where they should have an implementing resolution of some kind so he put together a draft in consultation with the City Manager and the City Attorney.

He said it is a draft and it is not the end all be all but it is an effort in which a lot of thought was to address some of these issues. He said one of the things it says is they should not apply Proposition 401 in a way that unconstitutionally impairs existing contracts but that is something that would have to be determined on a project-by-project basis and considering all of the facts at the time. He said there is another contract with Salt River Project that was a lawsuit settlement that provides the City with an end to litigation and both Prescott and Prescott Valley will be able to use wet water.

Mr. Pennarts said the Council was under constraints just like the Legislature is under constraints. He said they cannot repeal or modify a voter initiative so if needed a fix in almost every circumstance that has to go back to the voters again. He said all legislation is required to be applied by the courts and then by them if it is constitutional.

Mr. Pennarts said they do not presume that the Legislature, the Council or the citizens intended to pass an unconstitutional, invalid measure that will

not do anything because it cannot. He said if they have an opportunity to apply a legislative enactment in one way that makes it valid and upholds its purpose and in another way that would strike it down they are obligated to apply it in such a way that upholds its validity even if that means they not apply it to some extreme that would make it unconstitutional. He said apply it fairly, achieve its purpose and that is the task he undertook in this case.

He said he undertook the task to identify some guidelines that would attempt to do that, not attempt to strike it down or not attempt to render it of no value but to achieve its purpose while still trying to avoid as much risk of invalidity or unconstitutional application as they could anticipate. He said obviously there was room for discussion and maybe even a little elbow bumping on how that gets done but nevertheless there is an effort that has been made.

Mr. Pennarts said the focus was to provide guidelines for what he hopes are reasonable and fair applications of the provisions of Proposition 401 and to avoid as much as possible potentially impairing contracts, the existing agreements and obligations. He said the focus was to address those ambiguities and deficiencies. He asked how they analyze a given expenditure or project in light of Proposition 401 in a way that is logical, rational, makes sense, and can be consistently applied.

He said this is not just a 2009, 2010, or 2011 provision rather this is a charter amendment and it is going to be part of their charter forever unless or until it is ever changed. He said this was adopted in the context of what the law provides and what the whole context of municipal finance and budgeting of capital projects happens to be at this point in time. He said the Proposition was adopted in this context and it needs to be applied in this context. He said by documenting that context in a set of guidelines they are also providing background for the future for people to understand what was happening at the time.

Mr. Pennarts said they go back as lawyers and judges all the time and examine what was the state of the law at the time a law or constitutional provision was adopted. He said if they can figure that out they have more of an opportunity to give it a true application and interpretation. He said they establish and declare the effective date, which is not questioned but it is not in Proposition 401 because it could not be.

Mr. Pennarts said the implementation guidelines require that the charter amendment be fairly applied in accordance with its intent and purpose so they are not trying to ignore it or avoid it and in compliance with the legal constraints. He said the TPI should be read and applied in light of what are established budgetary and financing protocols. He said when they talk

about an expenditure they already know by law and the budget what expenditure means. He said they already know by public finance law what these terms mean in that context and they know in procurement law what a bid or procurement is that they are not allowed to split for instance. He said those concepts would inform people in trying to come to a determination whether something is or is not a project and how to apply the whole issue of project value.

Mr. Pennarts said the charter amendment applies to capital expenditures and that seems to be very clear throughout the context of it and there is the one place in establishing the future expenditures of a project that they include the first five years of operating costs. He said other than that the guideline says it applies to capital expenditures only. He said they have Capital Improvements Program (CIP) adopted in the budget every year. He said the terminology and the concepts are not just pulled from thin air rather that is put together with a lot of planning that goes into it and is renewed every year.

He said there are concepts that underlie the interrelationships between function and where the funding is going to come from. He said those sorts of concepts are meant to be captured here and that terminology would also be applied as it might apply to the context of decision being made about a project and its project value.

Mr. Pennarts said the reason for using established criteria in real life factors are that they are not making this stuff up as they go. He said it is being applied consistently as they already are. He said he is sure he can go into the City's website and find where they have received acknowledgement or accolades from the Government Finance Officers Association for having a well written set of financial documents and that follow accepted standards. He said those accepted standards ought to be followed in this instance, too, so that there is predictability and consistency in how they do these things.

Mr. Pennarts said a project is something that accomplishes a function, a discrete function. He said part of what the implementation guideline says is if they are going to call it a project it has to perform or enable a function. He said if it does not do anything it is less likely to be a project on its own. He said he thinks they are going to put together a matrix as there is no black and white answer that they can just plug and say it is a project. He said these are factors that will be used to make such determinations. He said if it operates as a stand alone basis then it is probably its own project with its own budget and then they judge it under the project value criteria.

Mr. Pennarts said the reason why they have a project may be relevant in some respects but he does view that as being the determining factor. He said growth in general means they may need to have more parks or they may need to expand a street or increase storm drainage capacity. He said that does not necessarily mean that those are all part of the project.

Mr. Pennarts said with project value they have the issue of aggregation and the potential application to past expenditures. He said that needs to be applied wherever possible; it upholds the validity which means do not unconstitutionally impair past contracts. He said it does not matter whether it is one of the City's or if it is a private contract, they cannot impair it with legislation.

Mr. Pennarts said development impact fees are a tough one. He said they are subject to some very specific and stringent constitutional and statutory requirements. He said if they pass a development impact fee ordinance it must be based upon a study that is made available to the public with public hearings about what is going to be included on the project list, what percentage of that is growth related and what percentage is not, what the costs are and therefore what the resulting fee is. He said they collect that fee and it has to go in a separate pot of money and only for that purpose. He said it cannot go into the general fund. He said the same thing is true of the citizens by Proposition 401 and they cannot require the City to change the rules.

Mr. Pennarts said they spoke earlier of conveyance of assets and that is one of the prongs under the definition of a project. He said assets have to refer to capital assets. He said they already have established finance and budget standards for this and they already follow generally accepted accounting practices to do this. He said those same things are going to be applied at this implementation guideline.

Mr. Pennarts said he obtained this from procurement code. He said a dollar amount of procurement requires a public bid if it is over so many dollars; thou shall not split the procurement item to avoid bidding. He said it is unlawful to do it; it violates City Code and state law. He said it is inherent in Proposition 401.

Mr. Pennarts said that is a thumbnail sketch of several pages worth of suggested implementation factors and procedures. He said they did have a chance before this meeting to meet with two proponents and representatives of the committee that passed Proposition 401. He said they had a good dialogue and have committed to have a good dialogue with the City and provide comments. He said the representatives made some points and there are some things in the draft document that can maybe be adjusted and may be appropriate to be adjusted. He said

ultimately it will be the Council's decision as to what to adopt. He said he strongly urges the Council to adopt something that can be consistently applied and will give a fair and true application to the intended purpose of Proposition 401. He said he would be happy to answer any questions.

Mayor Kuykendall said one of the purposes of this meeting and this explanation is that some of them on the City Council today were not on the Council when Proposition 401 was enacted and voted on by the public. He said he has had many questions about the initiative and they have had a lot of explanations within the community of their interpretation of what it says and what it means. He said this Council decided to go to an independent party and ask them to look at Proposition 401 in its entirety and give them their opinion, regardless of what that opinion is. He said they were not looking for someone to agree with the Council or be negative against the Council but to give their honest opinion of how they can best implement this as they move forward.

He said the economy has changed some of the time frames that they might have been looking at and the importance of doing things in a hurry is not as great as they might have been at one time. He thanked him for the explanations. He said he was sure there will be some that disagree and some that will agree but he thought they are on the right track to get an impartial explanation of what it was. He said now they can all go home and read, think and come back in a month or so in another workshop and go through this with public participation. He thanked Mr. Pennarts for the effort he put into it.

Mr. Pennarts said he has worked with cities and towns for 31 years and sometimes representing as many as 18 cities and town councils around the state at the same time on various things, especially water matters. He said he has never yet told a city or town what he thought they wanted to hear and he would be in trouble if tried to guess it sometimes. He said this is intended to be something that sparks a dialogue and hopefully provides some factors that ought to be utilized that would allow difficult decisions to be made on a rational and consistent basis.

Councilman Lamerson thanked Mr. Pennarts for the amount of time he spent. He said he would like to take the opportunity to digest what has been presented before he comes up with any written question. He thanked him for his time and objectivity. He said it was nice to hear from an unbiased person that reads all the stuff that is involved.

Councilwoman Suttles said she also appreciates the PowerPoint and she thought the purpose of Proposition 401 was because of the Big Chino Water Ranch IGA between Prescott and Prescott Valley. She said with the presentation Prescott Valley should have at least sent someone to sit

through it because they have an awful lot of dollars involved in this just as the City of Prescott does. She said maybe Mr. McConnell could invite someone to the next workshop.

City Manager McConnell said he thought the time frame mentioned by the Mayor was probably good for planning purposes. He said they need to design Workshop #2, not just show up and put it on the agenda. He said that may consist of some examples and things like that so they can actually see the draft resolution as applied to a specific project. He said with that in mind he thinks the time frame is good.

V. ADJOURNMENT

There being no further business to be discussed, the Prescott City Council Workshop of May 3, 2011, adjourned at 5:37 p.m.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk