



# PRESCOTT CITY COUNCIL SPECIAL MEETING A G E N D A

**PRESCOTT CITY COUNCIL  
SPECIAL MEETING  
TUESDAY, JUNE 21, 2011  
3:00 P.M.**

**City Hall Council Chambers  
201 South Cortez  
Prescott, Arizona  
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its **Special Meeting** pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

- ◆ **CALL TO ORDER**
- ◆ **PLEDGE OF ALLEGIANCE**
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Kuykendall  
Councilman Blair  
Councilman Hanna  
Councilman Lamerson

Councilwoman Linn  
Councilwoman Lopas  
Councilwoman Suttles

**I. RECOGNITION**

- A. Recognition of the Yavapai College Women's Softball Team.

**II. ACTION ITEMS**

- A. [Consideration of Senate Bill 1398 Implementation.](#)
- B. [Adoption of Resolution No. 4087-1157 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott Police Department to enter into a Memorandum of Understanding with the Arizona Department of Public Safety establishing permission and guidelines for use of state-licensed mutual aid radio channels and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.](#)

- C. Adoption of Ordinance No. 4797-1148 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, ordering and calling a Special Election to be held on November 8, 2011, to fill a two-year (short) term on the Prescott City Council.
- D. Consideration of Offer to settle the Lexington Insurance/Casa de Piños v. City of Prescott litigation.
- E. Recess into Executive Session.

### III. EXECUTIVE SESSION

- A. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, and discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS 38-431.03(A)(3) and (4), respectively.
  - 1. The Crossings legal issues and claims.
- B. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, pursuant to ARS 38-431.03(A)(1).
  - 1. Annual evaluation of City Clerk.
  - 2. Annual evaluation of City Attorney.

### IV. POST EXECUTIVE SESSION

- A. Possible action on Employment Agreement with City Clerk.
- B. Possible action on Employment Agreement with City Attorney.

### V. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on \_\_\_\_\_ at \_\_\_\_\_ .m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

\_\_\_\_\_  
Elizabeth A. Burke, City Clerk

<b>COUNCIL AGENDA MEMO – June 21, 2011</b>
<b>DEPARTMENT:</b> City Manager
<b>AGENDA ITEM:</b> Implementation of Senate Bill 1398

<b>Approved By:</b>	<b>Date:</b>
<b>Finance Director:</b> Mark Woodfill	
<b>City Manager:</b> Craig McConnell <i>Craig McConnell</i>	6-15-11

**Item Summary**

Senate Bill 1398, passed by the Fiftieth Legislature, First Regular Session, 2011, has been signed into law by the Governor, and will become effective July 20, 2011.

This legislation, amending ARS 12-116.04, as well as various provisions of Sections 28 and 41, imposes a new \$13.00 surcharge (in addition to various other existing surcharges) on:

*"every fine, penalty and forfeiture imposed and collected by the courts for criminal offenses and any civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle or for a violation of the game and fish statutes in Title 17."*

Distribution of the proceeds of this new surcharge as specified by the law is as follows: \$8.00 to the State Treasurer; \$4.00 to "the agency that investigated the offense or issued the citation to be used to supplement, not supplant, monies available for officer safety equipment"; and \$1.00 to the County Treasurer. Officer safety equipment is described in ARS 41-1723, as amended.

At the Council meeting of June 14, 2011, City Court Magistrate Arthur Markham presented additional information regarding implementation of Senate Bill 1398. As stated in the agenda memo for that meeting, and reiterated by Judge Markham, the City's General Fund will be adversely affected if fines, penalties or forfeitures are increased by less than \$13.00. With the majority of General Fund expenditures being for public safety, and challenges in maintaining service levels in that and other functional areas such as Parks and Recreation, any such loss of revenue due to state legislation cannot be recommended.

<p><b>Recommended Action:</b> MOVE to direct the City Court Magistrate and City staff to:</p> <ol style="list-style-type: none"> <li>1. Increase all fines, penalties or forfeitures subject to the surcharge specified by Senate Bill 1398 in the full amount of \$13.00; and</li> <li>2. Identify said surcharge on parking citation forms as being mandated by the State of Arizona; and</li> <li>3. Accompany parking tickets with a flyer or preprinted envelope notifying motorists that parking is available in the City garage on Granite Street.</li> </ol>
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<b>COUNCIL AGENDA MEMO – 06/21/2011</b>
<b>DEPARTMENT: POLICE</b>
<b>AGENDA ITEM: Resolution No. 4087-1157 approving a Memorandum of Understanding between the Arizona Department of Public Safety and the City of Prescott regarding use of state-licensed mutual aid radio channels</b>

<b>Approved By:</b>	<b>Date:</b>
Department Head: Michael Kappel	
Finance Director: Mark Woodfill	
City Manager: Craig McConnell <i>Craig McConnell</i>	6-16-11

**Summary:**

The Prescott Police Department requests approval of the attached Memorandum of Understanding (MOU) between the Arizona Department of Public Safety and the City of Prescott. This is a standard agreement granting permission and setting forth guidelines for use of state-licensed mutual aid radio channels.

**Background:**

Approval of the proposed MOU will authorize public safety departments within the City of Prescott to utilize state-licensed mutual aid radio channels to enhance communication and coordination during incidents requiring interagency operations and resources.

In accordance with provisions of the Arizona Interagency Radio System State Plan, the City will use authorized frequencies for communication requirements throughout emergency incidents, including en route travel to mutual aid events and during on-scene operations as directed by the incident commander.

Either party may cancel this MOU at any time, by written notice to the other party, or by subsequent agreements.

**Financial Impact:**

There will be no financial impact to the City as result of this MOU.

<b><u>Recommended Action:</u> MOVE to adopt Resolution No. 4087-1157.</b>
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**RESOLUTION NO. 4087-1157**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT POLICE DEPARTMENT TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE ARIZONA DEPARTMENT OF PUBLIC SAFETY ESTABLISHING PERMISSION AND GUIDELINES FOR USE OF STATE-LICENSED MUTUAL AID RADIO CHANNELS AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE**

**RECITALS:**

WHEREAS, the Prescott Police Department and the Arizona Department of Public Safety wish to enter into a Memorandum of Understanding ("MOU") which will authorize public safety departments within the City of Prescott to utilize state-licensed mutual aid radio channels to enhance communication and coordination during incidents requiring interagency operations and resources; and

WHEREAS, pursuant to this MOU, the City will use authorized frequencies for communication requirements throughout emergency incidents, including en route travel to mutual aid events, or during on-scene operations as directed by the incident commander; and

WHEREAS, either party may terminate this Agreement at any time by written notice to the other party or subsequent agreements; and

WHEREAS, the City of Prescott and the Arizona Department of Public Safety have the authority to enter into the foregoing agreement pursuant to ARS Section 11-952; and

WHEREAS, the MOU affords no significant financial impact to the City Police Department.

**ENACTMENTS:**

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT the City of Prescott hereby approves the attached Memorandum of Understanding between the City of Prescott and the Arizona Department of Public Safety, attached hereto as Exhibit "A," and made a part hereof.

SECTION 2. THAT the Mayor and staff are hereby authorized to execute the attached Memorandum of Understanding and to take any and all steps deemed necessary to accomplish the foregoing.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 21<sup>st</sup> day of June, 2011.

\_\_\_\_\_  
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
GARY D. KIDD, City Attorney

# MEMORANDUM OF UNDERSTANDING

## Arizona Interagency Radio System State Plan

### Arizona Department of Public Safety

and

City of Prescott

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(Authorized Federal, Tribal, State, Local Agency, or Emergency Organization)

### PURPOSE

This Memorandum of Understanding (MOU) is between the Arizona Department of Public Safety (AZDPS) and City of Prescott (User). This MOU establishes permission and guidelines for use of mutual aid channels by:

- Governmental agencies and non-governmental organizations (NGOs), utilizing mobile and portable two-way radios, operated by personnel actively engaged in incident-related activities, are eligible to apply for operating authority pursuant to this MOU.
- Federal agencies who are required to obtain permission to use the Arizona Interagency Radio System (AIRS) mutual aid channels through the National Telecommunications and Information Administration, unless a supporting agency provides all the mobile radios for the federal agency's use.

This MOU imposes certain protocols, procedures, and obligations upon users hereby authorized to use state-licensed mutual aid channels held by the Arizona Department of Public Safety (AZDPS).

### AUTHORITY

This MOU satisfies Federal Communications Commission Part 90 Rules for extending license privileges to others by agreement.

### APPLICABILITY

Generally, this includes organizations in the following governmental disciplines:

**Emergency Management**  
**Law Enforcement**  
**Fire Service**  
**Emergency Medical Services**  
**Public Works / Transportation**

**Public Safety Communications**  
**Public Health**  
**Health Care**  
**Hazardous Materials**  
**Governmental Administration**

This MOU authorizes use of state-licensed mutual aid channels for the purpose of coordination between emergency response agencies and resources. Such coordination may occur during interagency operations, en route travel, or on-incident communications in accordance with the Arizona Interagency Radio System (AIRS) State Plan.

## UNDERSTANDINGS

### AZDPS will:

- Manage and maintain proper license for the use of the mutual aid channels identified herein.
- Manage and maintain an accurate database of federal and state agencies and local government users that have accepted and signed this MOU.
- Issue updates and revisions to the Arizona mutual aid channel plan upon request by the Arizona Statewide Interoperability Executive Committee .

### Users will:

- Participate in regional and statewide communications planning and exercises that support improved mutual aid operations through the use of radio communications.
- Manage the use of mutual aid channels by its employees, ensuring compliance with the AIRS State Plan and federal/state/local laws, ordinances, and rules.
- Use the mutual aid channels hereby authorized for the intended purpose of coordination between emergency response agencies and resources. Such coordination may occur during interagency operations, en route travel, or on-incident.
- Use the mutual aid channels for operational and en route communications in accordance with local and regional policies and procedures.
- Use the interoperability frequencies for on-incident communications in accordance with the Incident Communications Plan established by the on-scene Commander.
- Ensure that appropriate mutual aid calling channels are monitored at dispatch centers identified in a regional communications plan. As an example, monitoring may include, at a minimum:
  - UHF/VHF AIRS Calling Channel
  - 800 MHz I-Call Channel
- Agree to comply with and follow the Arizona Interagency Radio System State Plan.

### The parties mutually agree:

- User and AZDPS agree their mutual interest will be furthered by continued coordination between the User and the Arizona Statewide Interoperability Executive Committee.
- User and AZDPS agree this MOU may be cancelled at any time, by written notice to the other party, or by subsequent agreements.

**AGREEMENT**

This Memorandum of Understanding was agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

User Name: City of Prescott

Authorized Signature: \_\_\_\_\_

Print Name: Mike Kabbel

Title: Chief of Police

Address: 222 S. Marina

Prescott, AZ 86303

Phone: 928-777-1901 Email: mike.kabbel@prescott-az.gov

Fax: 928-777-1939

Contact Name, Phone, Email (if different than above): \_\_\_\_\_

Number of mobile, portable, and/or temporary base radios to be operated under AZDPS Licenses.  
(This information is required by AZDPS as a condition of its license from the FCC.)

	Mobile	Portable
150 MHz	<u>150</u>	<u>150</u>
450 MHz	<u>0</u>	<u>0</u>
700 MHz	<u>0</u>	<u>0</u>
800 MHz	<u>0</u>	<u>0</u>

**ARIZONA DEPARTMENT OF PUBLIC SAFETY**

Signature:  \_\_\_\_\_

Kevin Rogers, Manager, Wireless Systems Bureau  
Arizona Department of Public Safety  
P.O. Box 6638, Mail Drop 2800  
Phoenix, AZ 85005-6638  
602-223-2247

<b>COUNCIL AGENDA MEMO – (06/21/2011)</b>	
<b>DEPARTMENT:</b>	City Clerk
<b>AGENDA ITEM:</b>	Ordinance No. 4797-1148 ordering and calling a Special Election to fill a two-year (short) term on the Prescott City Council

<b>Approved By:</b>		<b>Date:</b>
<b>Department Head:</b>	Elizabeth A. Burke, City Clerk	06/15/2011
<b>Finance Director:</b>	Mark Woodfill	
<b>City Manager:</b>	Craig McConnell <i>Craig McConnell</i>	6-16-11

**Item Summary**

The attached ordinance provides for the Council to order and call a Special Election to be held on November 8, 2011, in conjunction with the General Election, to fill a two-year (short) term on the Council due to Councilwoman Linn's resignation.

**Background**

On June 13, 2011, Councilwoman Linn, whose term ends in November 2013, submitted her resignation, effective July 14, 2011. Article II Section 12 of the Prescott City Charter states that, *"In the event that such unexpired term exceeds two years, then the appointment to such vacancy shall be for the period from the appointment until the next succeeding election, at which time an individual shall be elected to serve the remainder of the term and who shall be designated on the ballot as running for the "short term."*

This provision of the Charter addresses two separate processes:

1. Appointment to fill the vacancy until the next succeeding election.

At their June 14, 2011, Regular Meeting the City Council directed the City Clerk to follow the current policy for appointments to fill a vacancy (outlined in Resolution No. 3232), to advertise and receive applications until 5:00 p.m. on Friday, July 1, 2011. This process has begun with a press release to radio stations and the newspaper, information and application form posted on the City's website, and direction of publication in the newspaper.

2. Election of an individual at the next succeeding election.

To comply with the intent of this provision in the Charter, and also with election laws outlined in the Arizona Revised Statutes, it is staff's recommendation that the normal nominating procedure and processes for placing a name on a ballot be followed in this instance. The Charter does not specify how this is done in a special election for the short term position. It does however, reference state law elections processes. As the time for this nominating procedure to be followed for the Primary Election has passed, and normal state election nominating procedures cannot be followed in August due to timing issues under state

**Agenda Item:** Ordinance No. 4797-1148 ordering and calling a Special Election to fill a two-year (short) term on the Prescott City Council

election laws, we are recommending that the next "succeeding election" be the General Election on November 8, 2011.

The Charter does reference the holding of a special election for the short term position in the event that the council does not do an interim appointment, and consistent with the Charter this special election for the short term position would be the General Election on November 8, 2011. The City Clerk and City Attorney have conferred with both the League of Arizona Cities and Towns and the Yavapai County Recorder's Office and we are all in agreement that this is the clearest route to take in view of the directives and intent set forth in the Charter and State elections laws. It allows for candidates to be named on the ballot, and to have the opportunities afforded by the nominating petition process as well as write in processes that would apply in a normal election process.

This means that packets would be available from the City Clerk's Office beginning Wednesday, June 22, 2011, and candidates would have to file the necessary paperwork between July 11, 2011, and August 10, 2011.

**Recommended Action:** MOVE to adopt Ordinance No. 4797-1148.

**ORDINANCE NO. 4797-1148**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ORDERING AND CALLING A SPECIAL ELECTION TO BE HELD ON NOVEMBER 8, 2011, TO FILL A TWO-YEAR (SHORT) TERM ON THE PRESCOTT CITY COUNCIL**

**RECITALS:**

WHEREAS, on Monday, June 13, 2011, Councilwoman Linn, whose term runs through November 2013, resigned from the Prescott City Council, effective July 14, 2011; and

WHEREAS, Article II Section 12 of the Prescott City Charter states that, "*...In the event that such unexpired term exceeds two years, then the appointment to such vacancy shall be for the period from the appointment until the next succeeding election, at which time an individual shall be elected to serve the remainder of the term and who shall be designated on the ballot as running for the "short term"; and*

WHEREAS, on June 14, 2011, the City Clerk was directed to begin the process for appointment by the Council of an individual to serve until the next election; and

WHEREAS, the General Election of the Prescott City Council is scheduled to be held on Tuesday, November 8, 2011; and

WHEREAS, the City Council wishes to call a Special Election for November 8, 2011, at which time the names of those individuals that have submitted the proper nominating papers/petitions for the short term council position shall be on the ballot and the individual receiving the most votes shall be elected for a "short term," and shall fill the remainder of councilmember Linn's term of office.

**ENACTMENTS:**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT a Special Election for the City of Prescott shall be held on November 8, 2011.

SECTION 2. THAT the City Clerk is hereby directed to notify the public that candidate packets will be available in her office on June 22, 2011, to run in this Special Election for a "short term."

SECTION 3. THAT complete candidate papers/petitions will be accepted in the Prescott City Clerk's Office beginning July 11, 2011, through 5:00 p.m. on August 10, 2011.

SECTION 4. THAT the candidate receiving the greatest number of votes shall be declared elected.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona on this 21<sup>st</sup> day of June, 2011.

\_\_\_\_\_  
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

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

\_\_\_\_\_  
GARY D. KIDD, City Attorney

<b>COUNCIL AGENDA MEMO – (June 21, 2011)</b>
<b>DEPARTMENT:</b> Legal Department
<b>AGENDA ITEM:</b> New developments in the Lexington Insurance Company litigation

<b>Approved By:</b>		<b>Date:</b>
<b>Department Head:</b> Gary D. Kidd <i>GDK</i>		<i>6/15/11</i>
<b>Finance Director:</b> Mark Woodfill		
<b>City Manager:</b> Craig McConnell <i>Craig McConnell</i>		<i>6-15-11</i>

**Item Summary** – This case involves a claim by Lexington Insurance Company that arose out of a sewer back up at the Casa de Pinos residential facility. The matter was previously mediated. While the case has continued in litigation the parties have exchanged several Offers of Judgment and settlement offers. The City Attorney will present Lexington’s most recent settlement offer and possible options for the Council to consider at the June 21<sup>st</sup> meeting.

<p><b>Recommended Action:</b> Moved to approve/ reject offer to settle the Lexington v. City of Prescott litigation in the amount of \$ _____.</p>
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