

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

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on JULY 12, 2011 in the COUNCIL CHAMBERS located at CITY HALL, 210 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

No introductions were made.

◆ **INVOCATION:** Reverend Julia McKenna-Johnson

Reverend McKenna- Johnson gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Linn

Councilwoman Linn led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

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

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Acting City Manager McConnell thanked the volunteers in the community, particularly the City employees who did such a great job over the July 4th holiday. He noted that it was miraculous how fast the streets were cleaned up and traffic started after the parade. Mayor Kuykendall said that the entire Council seconded that.

I. PUBLIC COMMENT

A. Helene Kaplan re Nicholet Trail.

Said that she was there to talk about what she considered an injustice done to her in 2003. She noted that she lived in Prescott for over 35 years and considered herself a good citizen. She lived at 2992 Willow Creek Road which was 100 feet on the west side of Kingdom Hall. She said the old road was called Nicholet Trail. In 2007 the residents on Nicholet Trail and other residents received a letter from Dale Wachs, City Engineer, about a plan to realign Nicholet Trail to bring it to the light at Smoketree Lane and Willow Creek Road. She noted the cost was \$750,000 to the taxpayers. She said when the work was nearing completion, the asphalt workers told her the street was to be closed off. She said it was just a few feet of where Nicholet touched on her access road.

She said because of the increased traffic, it was beginning to be quite dangerous to turn in there. She noted Dale Wachs said the only safe way for people to get into Nicholet Trail was to change the road to the intersection at Smoketree Lane. She said she thought that she would be included. She noted that someone on that street wanted a dead end street and that he and another person passed a petition saying there could be 40 homes on her property, which was 10 acres. She noted there could only be three homes built that would want to access Willow Creek Road.

She contacted City Attorney Moffitt who said he had received petitions from seven people who lived on Nicholet asking for a dead end street, but no one told her. She saw the petition later. She said she was excluded from using that access road. She said if she used Nicholet she had to open a heavy gate and she injured her left shoulder trying to open the gate and was not physically capable of opening and closing it. She said she could not do anything about it and chose to move away. She was asking the Council if the regulation could be changed. She noted she owned the homes and ten acres of land, but did not live there. She said even though the taxpayers paid \$750,000, they had to pay to pave their own streets. It was a City street, but some felt that since they contributed they could do what they wanted.

Mayor Kuykendall said that normally the Council did not respond but they understood that she would be meeting with a City representative late in the day and hoped they could move forward.

II. PRESENTATIONS

- A. Representatives of Firehouse Restaurant to report on upcoming Firefighter Charities Volleyball and Luau Fundraiser.

Aaron Meisheid, owner of Firehouse Kitchen, announced their second annual Hawaiian Luau Fundraiser on July 16. He noted that they would truck in 300 tons of sand for beach volleyball, have live music, a beer garden, pig roasting, a hula troop and the fire throwers. He said that they would also have a dunk tank and asked the Council to volunteers.

Councilwoman Linn challenged the Councilmembers. She said that she and Councilwoman Suttles were volunteering on Saturday and asked the others to volunteer also. Aaron thanked the sponsors and said they would have a raffle for a \$500 shopping spree.

Mayor Kuykendall thanked them for what they had done for the community.

- B. Staff presentation re Lorraine Drive right-of-way.

Mr. Kidd, City Attorney, said the Council asked for a brief presentation to address the facts dealing with Lorraine Drive. Matt Podracky noted that at the request of the Limited Liability Company named Chamberlain & Meyers on March 11, 2008, Prescott City Council adopted Ordinance No. 4643-0845 for the abandonment of a portion of Lorraine Drive to Mr. Myers. He noted Mr. Myers was to pay \$24,000 for that portion of Lorraine Drive based on an appraisal at that time. He said there was no formal contract for the real property transaction. He noted that upon receipt of the payment the City was to then execute a Quit Claim Deed relinquishing any interest in the subject property.

He said Mr. Myers never made payment and the City never executed the requisite Quit Claim Deed leaving the transaction incomplete. However, upon information and belief the Yavapai County Cartographer mapped the portion of Lorraine Drive in question to Mr. Myers based on Ordinance No. 4643-0845 being recorded with the County, without having the Quit Claim Deed necessary to complete the real estate transaction.

He said Mr. Myers was subsequently contacted requesting payment; however, he declined to complete the transaction. In an effort to assist in clearing up the property owner discrepancy, Chamberlin & Myers, L.L.C., executed a Quit Claim Deed declaring no interest in the subject Lorraine Drive. He noted that the Prescott Legal Department, through letter to the County, advised that the newest quitclaim was not necessary as there was never a transfer of the property by deed from the City.

He said the real estate transaction was never completed. He noted there was no monetary loss to the public as the public retained and still retains the real property asset. He said that a search of the public record showed the City as record owner of the subject property.

Mr. McConnell noted the transaction was never consummated and there never was a transfer of right of way. He noted there was no action to be taken. He said the confusion came with why the records of Yavapai County indicated the ownership had been transferred. He noted it had been cleared up and it was a cartographic error. He said the deed was never executed and the case was effectively closed. Mayor Kuykendall noted the last part was done in 2008.

Deborah Sellers, Prescott, said it had been the errors made by the City, not the property owners in The Crossings that had resulted in the legal action. Mr. Podracky said there was a specific agenda item that they were talking about. Ms. Sellers said it was all to do with Lorraine Drive.

Mr. Kidd said that the agenda item was just dealing with the facts on Lorraine Drive. He said if it tied into Lorraine Drive, it would be appropriate for the Chair to allow conversation on it.

Ms. Sellers said they uncovered the problem with Lorraine Drive due to their due diligence on The Crossings. She said the deal was that Ty Myers would get the deeded rights to the crossing of Lorraine Drive so that he would not have to have a road running through his commercial development. She said he constructed the commercial portion of The Crossings Development first and he did not get secondary egress or exit to either the Sandretto Estates subdivision or his commercial development until years later when part two of The Crossings was developed and the swapped Lorraine Drive and Crossing Boulevard became a through connector/connector road, which was called Clearwater Drive and Robin Drive.

She noted that in the words of Steve Blair, the connector/connector was always intended to be there, which saved the City several million dollars in not having to construct a bridge. She noted that it put a highway through the middle of their residential subdivision.

She said that on May 30, 2011, Mayor Kuykendall sent an email to Mr. Sellers saying that he would talk to Ty Myers about this. She asked him if he had that conversation and if so, what was said. Mayor Kuykendall said that he did not have a clue and he did not remember talking to Ty about it. He noted that Ms. Sellers had a tendency to bend things around. She noted that Mr. Myers did not comply with his end of

the bargain and that he did not pay and it took the City a long time to find that out.

III. CONSENT AGENDA

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

- A. Approval of the minutes of the Prescott City Council Special Meeting of June 21, 2011, the Regular Voting Meeting of June 28, 2011, and the Workshop of July 5, 2011.

COUNCILWOMAN LINN MOVED TO APPROVE CONSENT AGENDA ITEM III-A; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

IV. REGULAR AGENDA

- A. Public Hearing and consideration of a liquor license application from Rosa Anzelmo, applicant for Rosa's Pizzeria, Inc., for a Series 12, Restaurant, license for Rosa's Pizzeria located at 330 West Gurley Street.

City Clerk Elizabeth Burke reviewed the application, noting that the property had been posted but no comments had been received from the public. The applicant was acknowledged and her restaurant welcomed.

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

COUNCILWOMAN LOPAS MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION FROM ROSA ANZELMO, APPLICANT FOR ROSA'S PIZZERIA, INC., FOR A SERIES 12, RESTAURANT, LICENSE FOR ROSA'S PIZZERIA LOCATED AT 330 WEST GURLEY STREET; SECONDED BY COUNCILWOMAN LINN, PASSED UNANIMOUSLY.

- B. Public Hearing and consideration of a liquor license application from Karen Ruth Hough, applicant for Hough Team LLC for a Series 12, Restaurant, license for Roman Ristorante located at 623 Miller Valley Road.

Ms. Burke reviewed the application, noting that the property had been posted but no comments had been received from the public. No representative of the restaurant was present.

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

COUNCILMAN HANNA MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION FROM KAREN RUTH HOUGH, APPLICANT FOR HOUGH TEAM LLC FOR A SERIES 12, RESTAURANT, LICENSE FOR ROMAN RISTORANTE LOCATED AT 623 MILLER VALLEY ROAD; SECONDED BY COUNCILWOMAN LINN; PASSED 6-1 WITH COUNCILWOMAN SUTTLES CASTING THE DISSENTING VOTE.

- C. Acceptance of grant from the Arizona Department of Transportation Aeronautics Division for the Runway 21L-3R Safety Improvements project.

Mr. Vardiman noted that this was the State's share of the Phase I funding. He noted that as soon as they accepted the grant they could begin receiving reimbursements for the State's share of the costs the City had incurred.

Councilwoman Suttles asked him to cover some highlights because she did not think that everyone understood what was happening at the airport. Mr. Vardiman said the project came about from a Congressional mandate in the late 1990's. He noted that any airport with air carrier service had to have a safety zone around the runway. In 2005 they determined the project would be the most effective method to meet the requirements. There were nine main components:

- ◆ Removing approximately 400' of Runway 21L-3R from service on the 3R end and adding it to the 21L end to ensure a full 1,000 Runway Safety Area at the 3R end including modifications and relocations of existing navigational equipment as required.
- ◆ Shifting of Taxiways C and D to match the relocated 21L Runway end.
- ◆ Taxiway connectors between Runway 21L-3R and adjacent parallel Taxiway C & D.
- ◆ Replacing 7,000 feet of drainage ditch between Runway 21L-3R and Taxiway D with storm drain pipe to eliminate steep infield slopes.
- ◆ Providing paved shoulders on Runway 21L-3R in association with the Runway and parallel Taxiway modifications.

- ◆ Replace runway and taxiway directional signage at several locations to enhance pilot guidance.
- ◆ Reconstruction of failing pavement at the intersection of Runway 21L-3R & Runway 12-30 and at Taxiway E4.
- ◆ Preparation of an updated Obstruction Survey to fully identify potential obstructions to air navigation on and in the vicinity of the airport and redesign of Instrument Approach Procedures for Runway 21L-3R.
- ◆ Update of Airport documents including but not limited to the Airport Layout Plan and the Airport Signage and Marking Plan.

He noted the Federal share was 95 percent and was \$2,571,565 with a 2.5 percent match from the City and a 2.5 percent match from the Arizona Department of Transportation (ADOT) Grant.

He said the Phase 2 portion was going to be coming forward later after they completed the design and prior to the actual start of construction. That would again be 95 percent from the Federal government at \$6,665,613 with a 2.5 percent to be funded by the State and 2.5 percent to be funded by the City. He noted that the project had been budgeted in the FY12 Budget and the design should be done by the end of August.

Councilman Lamerson said it looked like there were three governmental agencies participating in something like many other municipalities do that benefited everyone in the region, not just the Prescott citizens.

Yvonne Dorman, Prescott, said she was happy that Councilwoman Suttles asked the question. She noted that it was \$6 million from the federal money which was everyone's money. She said she decided to find out who used the runway. It was the flight schools, Embry-Riddle, private pilots, an airline that had 19 seats, 3 flights a day and if they were full that was 57 people. She said the tankers also used the runway and they scared people because they flew so low. She said that it seemed that there had not been accidents on the runway because of where it was positioned now and she would not want anyone to be hurt because the runway was too short. She noted that she worked for an airline for 25 years. She asked what the \$175,000 would be used for in the next phase.

Mr. Vardiman said that it would pay for part of the construction costs of the project as well as administrative and construction management of the project. Ms. Dorman asked if it would be used for safety. Mr. Vardiman said yes, it was not being driven by aesthetic components.

Mayor Kuykendall said the federal portion came out of user fees from airlines and everyone that flew. He said it was a trust fund established by Federal government for use in airport and airport development. He said the State's share came from user fees also. He noted that in the City's portion, they charged the General Fund for the capital expense and it was not recoverable by the airport.

Ms. Dorman asked if the \$6 million had been in a fund from people using the airport. Mayor Kuykendall said some of their revenue at the airport came from the City's percentage of fuel sales. He noted the other source of revenue was rental on hangers. He said they were spending Prescott money for capital improvements at the airport. Ms. Dorman said when she first read it, it looked like "if we build it they will come."

Mayor Kuykendall said the improvement did cut into some of the parking ramp. He noted they would be changing the real estate. He said it took away some of the parking places and it may inconvenience some of the tenants. He said there were some that did not agree with what the Federal mandate was.

Councilwoman Lopas noted that it was mandated by the Federal government for safety improvements. Mr. Vardiman said she was correct.

COUNCILWOMAN LINN MOVED TO APPROVE ACCEPTANCE OF THE GRANT FROM THE ARIZONA DEPARTMENT OF TRANSPORTATION AERONAUTICS DIVISION FOR THE RUNWAY 21L-3R SAFETY IMPROVEMENTS PROJECT; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- D. Adoption of Ordinance No. 4801-1201 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, levying upon the assessed valuation of the property within the City of Prescott, subject to taxation, a certain sum upon each one hundred dollars (\$100.00) of valuation sufficient to raise the amount estimated to be required in the annual budget, less the amount estimated to be received from other sources of revenue: providing funds for various bond redemptions for the purpose of paying interest upon bonded indebtedness, and providing funds for the general municipal expenses, all for the fiscal year ending the 30th day of June, 2012.

Mr. Woodfill noted they had been going through the budget process for the past six months and on June 28, 2011, the final budget was adopted. He said this item was the Property Tax Levy. He said the State law required it not be considered for at least 14 days after that public hearing. He said \$1,255,878 went into the General Fund to be used for General Fund activities.

He noted the secondary portion paid for debt service on General Obligation bonds, for \$1,583,350 for next year, which would be for the purchase of Willow and Watson lakes.

He showed some graphs that showed:

- ◆ Property Tax Rate Comparison chart
- ◆ Total primary and secondary compared to others

Councilwoman Linn hoped that in the budget there was a possibility of retrofitting sanitary trucks with snow shovels.

Councilman Hanna said that he had a problem raising taxes on anyone. He would like to come up with the money somewhere else.

Councilwoman Suttles asked Mr. Woodfill to explain why the City of Prescott never raised these rates.

Mr. Woodfill said that the State law allowed municipalities to set their levy limit. The \$1,255,000 was what the Council set. That ended up being in a rate based on valuation. He said that was why the rate was not always reflective. He said the increase came from the secondary portion, to fulfill the obligation that the voters agreed to.

Councilman Lamerson said that it was a bad time to be raising taxes. On the other hand he understood that the City had obligations. He asked if the bonds would not be paid if they did not increase the levy.

Mr. Woodfill said if the Council decided that they did not want to assess property tax next year, they would have to make \$3.8 million cuts in the General Fund, which was approximately 12 percent of the fund, which would be Police, Fire and Parks and Recreation.

Councilwoman Linn said that she hated to raise taxes, too, but they had to understand that the voters approved this bond. She said that if they did not vote for this they will have \$3.8 million coming out of the General Fund.

Councilman Hanna said that the money did not necessarily have to come out of the largest portion of the General Fund. He asked if they could use something in another area.

Mr. Woodfill said the other funds had restrictions on them in place by the State legislature. Those monies were not available to be moved around at

the discretion of the Council. He noted that during the budget process the \$1.25 million for primary taxes was allocated to the operations of Police, Fire and Parks and Recreation.

Mr. Woodfill showed the departments in the General Fund that could be cut, they included:

- ◆ Police
- ◆ Fire
- ◆ Parks and Recreation/Library
- ◆ Regional Communication
- ◆ Development Services (had been cut drastically over the past three years)
- ◆ Finance/IT
- ◆ General Government (dealing with Police, Fire and Parks and Recreation)

Councilman Lamerson asked if every time they went to the voters with a bond vote, if they would be faced with the same dilemma for having to pay the bond back. Mr. Woodfill said that was why they went to the voters. The language in the information brochure let them know that the debt service would be charged against their property taxes for the life of the bond.

Mayor Kuykendall said that the City was in a downturn now and the assessed value was down. He noted that they had issued some debt and they had to pay that now. He said that was a variable that would never be constant for a community that was doing anything.

He said that 30 years ago, the goal of the community was to some day not have a property tax. He said that they thought there was a public relations benefit to not have one. He said that in 2003 they were at \$.2517 and it continued lowering until 2010 when they were down to \$.1695. He said at that point in time the decreases in property valuations were just starting to take effect. He said in 2012 the City moved from .1695 to .1978.

He said that when he did the math it came out to about \$6.00 per home. Mr. Woodfill said that it was about \$39.56, which was about \$4 more than last year.

Councilman Lamerson said that he did not think it was judicious to compromise the City's bonding rate. He did not see a lot of alternatives on this issue. Councilman Blair said that there were two lakes that were tied to this that the voters lived with every day.

Daniel Mattson, Prescott, said if someone wanted him to pay an extra \$6.00 for the privilege of living in Prescott, he was more than happy to do it.

COUNCILWOMAN LINN MOVED TO ADOPT ORDINANCE NO. 4801-1201; SECONDED BY COUNCILMAN BLAIR; PASSED 6-1 WITH COUNCILMAN HANNA CASTING THE DISSENTING VOTE.

- E. Adoption of Resolution No. 4091-1201 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 4080-1150, and amending the Intergovernmental Agreement approved by Resolution No. 4080-1150 with the Arizona Department of Transportation (ADOT) pertaining to transfer of ownership and maintenance responsibility of two segments of State Route 89 and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Nietupski noted the item had been approved on May 24. He said there were a couple of errors on the Intergovernmental Agreement that had been corrected.

He said they also amended and inserted standardized text to the waiver of the four year advanced notification and pavement requirements. He said Yavapai County would be providing maintenance on the northerly section for the next five years.

COULCILMAN LAMERSON MOVED TO ADOPT RESOLUTION NO. 4091-1201; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- F. Award of bid and contract for the FY 2012 Pavement Rehabilitation Project to Combs Construction Company, Inc., in the amount of \$1,337,604.50.

Mr. Nietupski said it had become one of the Council;s priority projects. He said the project covered Iron Springs Road - Gail Gardner to Whipple Street, Willow Creek Road - Whipple Street to Green Lane, Granite Street – Gurley Street to Willow Street and Goodwin Street – Montezuma to Mt. Vernon. He said is would be mostly mill and fill with a full mill on Iron Springs Road.

He said the project would commence in July and be completed in September. He noted there would be an asphalt rubber friction course on Willow Creek and Iron Springs. He said some of the work would be performed at night.

He said that the funding came from the one percent sales tax for Streets and Open Space. Prior to the paving occurring they reviewed their water and wastewater models to understand if there were any immediate upgrade needs and there were none. Councilman Lamerson noted that the models had been a helpful addition to the planning procedures.

Mr. Nietupski said the water and sewer models had been instrumental in their ability to move forward with projects. It was a challenge to coordinate the activities necessary to rebuild. He said the highest priorities in water/sewer were attempted to be addressed.

Councilman Blair asked if the City kept the millings from the four roads. Mr. Nietupski said that they would all be hauled to the City facility and used in the application for the dust suppression membrane. Councilman Blair said he thought it would be important to show the citizens how much money had been saved by using the millings. Mr. Nietupski said Mr. McDowell was planning a presentation in the near future.

Councilwoman Suttles asked if it was a specialize bid. Mr. Nietupski said that it was an A-General type of engineering. He said the people who bid did it as their bread and butter. Councilwoman Suttles asked if Combs had bid on other projects. Mr. Nietupski said yes.

COUNCILMAN BLAIR MOVED TO AWARD THE BID AND CONTRACT FOR THE FY2012 PAVEMENT REHABILITATION PROJECT TO COMBS CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$1,337,604.50; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- G. Approval of a professional services agreement with AMEC Earth and Environmental, Inc., for engineering design services for the Senator Highway Reconstruction Project in an amount not to exceed \$42,764.86.

Mr. Nietupski noted this was for additional engineering contemplated after the 99 percent completion of the design for reconstruction of Senator Highway. He said AMEC was the original firm with whom the City engaged for those services in 2007. It was recognized in 2009 that it would be appropriate to add a left turn lane at Nathan Lane. Additional engineering would be required for that project.

COUNCILMAN LAMERSON MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH AMEC EARTH AND ENVIRONMENTAL, INC., FOR ENGINEERING DESIGN SERVICES FOR THE SENATOR HIGHWAY RECONSTRUCTION PROJECT IN AN AMOUNT NOT TO EXCEED \$42,764.86; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- H. Approve to complete a grant application to the U.S. Department of Justice Bureau of Justice Assistance (BJA), seeking grant funds in the amount of \$13,559.00 for the purchase of law enforcement program equipment.

Chief Kabbel noted that the deadline for the grant was July 21, 2011. He noted that if it was awarded, the funds would be used to purchase equipment and supplies to enhance and improve law enforcement operations. Some of the items could include holsters, lighting systems, bulletproof vests and training. He said that no local match was required.

COUNCILWOMAN LOPAS MOVED TO APPROVE COMPLETION OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE (BJA), SEEKING GRANT FUNDS IN THE AMOUNT OF \$13,559.00 FOR THE PURCHASE OF LAW ENFORCEMENT PROGRAM EQUIPMENT; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- I. Adoption of Resolution No. 4092-1202 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the ballot language regarding proposed Charter amendments to be presented to the voters of the City of Prescott at the Special Election to be held on November 8, 2011.

Ms. Burke noted that one of the items that had been approved previously required two separate actions, so there were now eight issues to be voted on.

Councilwoman Linn thanked the committee and said that they had brought several charter amendments forward they felt needed to be done. She noted that they kept them in compliance with State law.

Councilman Lamerson thanked her for her leadership. He said that she kept them on track and was a valuable asset to the team. Councilwoman Linn thanked Ms. Burke and Mr. Kidd for their help.

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Bob Luzius, Prescott, said that he would be more comfortable with the amendments if there were citizens on the committee. Mayor Kuykendall said that they looked at the amendments a year ago and there was not room on the ballot for them. He said that there was nothing new.

COUNCILWOMAN LINN MOVED TO ADOPT RESOLUTION NO. 4092-1202; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- J. Consideration of Settlement Offer from Lexington Insurance in the Lexington Insurance/Casa de Piños v. City of Prescott litigation.

Mr. Kidd noted that there was another settlement offer made by Lexington which was consistent with an offer of judgment they made approximately four to five months ago. He said it was half of the original claim from Lexington.

Mr. Lloyd said the last request from Lexington was to resolve the matter with a settlement in the amount of \$77,500.

Councilwoman Linn said she and Councilwoman Suttles went to Phoenix concerning the suit and wanted Mr. Lloyd to explain the suit. Mr. Lloyd noted that it was a lawsuit over a sewer backup at the Casa de Pinos. He noted the original claim was around \$150,000. He said that in the interim, they put in a backwater valve. He said the City continued to have a very strong program that recommended that citizens put in backwater valves.

COUNCILWOMAN LOPAS MOVED TO APPROVE SETTLEMENT OFFER FROM LEXINGTON INSURANCE IN THE LEXINGTON INSURANCE/CASA DE PINOS V. CITY OF PRESCOTT LITIGATION; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- K. Approval of procedure and schedule for appointment to fill unexpired Council term.

Mr. McConnell noted that the agenda had two parts to it. The first part was the alternative the Council would like to follow involving creating short list. Alternative A would use the existing Council Appointment Committee which would screen applications and depending upon Council direction, shortlist a specific number and bring the number to Council for interviews. Alternative B would be to have each Council member choose a number of candidates; submit those to the Clerk and those with the highest number of indications of support would comprise the short list. The Council would also have to indicate how many applicants they wanted for the short list.

He said the second part of the item was the schedule they would like to follow. He noted that a schedule was in the Staff Report that reflected prior discussion. The schedule consisted of a few milestones. He said the first was that day when the Council would choose an alternative for short listing and endorse a schedule. He said if the Council wanted to

have interviews on July 19, 2011, the short list would have to occur and candidates notified by then. He said if that occurred, a new Council member could be seated as early as July 26, with the term expiring in November.

Councilwoman Linn said that the Council Appointment Committee worked well in the past for appointments and she thought that Alternative A was the cleanest and most efficient. Mayor Kuykendall agreed that the system was working. Councilman Blair also agreed.

Councilwoman Lopas said she respectfully disagreed with Council members and the Legal Department on procedure. She thought the committee functioned well choosing Boards and Commissions, which was a separate resolution and policy. She said the resolution needed to be changed if that was the direction they were going to go. She said she would go with B even though she saw where it was going.

Councilman Lamerson asked Mr. Kidd if the policy left room for interpretation, the discretions of the Council with regards to short listing. Mr. Kidd said the policy in Section 5 said the entire Council was to select an individual and the resumes go to each Council member for his review. He noted there was a Selected Applicant Section 4 which said the Mayor, with the City Council will schedule a date for the entire Council to publically interview selected candidates. He said that it did not specify the selection process. He said it was clear resolution said there would be a selected group of candidates who were interviewed in public, by the entire Council.

Councilman Lamerson agreed with Councilwoman Linn and Councilman Blair.

COUNCILWOMAN LINN MOVED TO APPROVE ALTERNATIVE A AND RECOMMEND A MINIMUM OF THREE AND MAXIMUM OF FOUR CANDIDATES TO BE INTERVIEWED BY THE COUNCIL IN PUBLIC SESSION AND ADOPTING THE STEPS AND SCHEDULE THEY USE AS IDENTIFIED IN THE COUNCIL AGENDA MEMO.

Councilwoman Suttles asked Councilwoman Lopas what she saw as a number. Councilwoman Lopas said that it was not about a number, it was about following the intent of the resolution. She said that when she read it in order, it was clear that everyone was supposed to be included in the process. She said that it was a separate resolution and that she was uncomfortable with how they were proceeding and she was the odd man out. Councilwoman Suttles said that she wanted to make sure Councilwoman Lopas had her say.

SECONDED BY COUNCILMAN LAMERSON.

Councilman Lamerson said that because they had a motion and a second and a recommendation from an ad hoc, anyone of the six people could disagree with the recommendation. He noted that the committee was going to do a lot of leg work for the Council and each one of the Council had the resumes of the candidates.

Daniel Mattson, Prescott, said that he could understand where Councilwoman Lopas was coming from. He said that if any of the Council members thought that someone was missing from the short list, they should throw them in.

MOTION PASSED 6-1 WITH COUNCILWOMAN LOPAS CASTING THE DISSENTING VOTE.

- L.*** Approval for night work on July 26, 2011, to upsize the water service and water meter at 108 West Gurley Street.

Scott Tkach noted the Music Café had additional water fixtures from the previous facility and they had to upsize the meter.

COUNCILWOMAN SUTTLES MOVED TO APPROVE NIGHT WORK ON JULY 26, 2011, TO UPSIZE THE WATER SERVICE AND WATER METER AT 108 WEST GURLEY STREET; SECONDED BY COUNCILWOMAN LINN.

Councilman Blair asked when the street would be opened back up. Mr. Tkach said that he would anticipate work to be completed prior to business opening. He said he was told the work was anticipated to be completed within that evening.

MOTION PASSED UNANIMOUSLY.

- LM.*** Special Recognition of Outgoing Councilwoman Tammy Linn and related presentations.

Councilwoman Linn thanked various people for their support and handed out gifts for the Mayor and Council. She then presented a flag to Chief Kabbel and Councilman Lamerson which was flown over the United States Capitol on October 3, 2003.

Councilman Lamerson presented Councilwoman Linn with a plaque and thanked her for her service. Councilwoman Suttles presented flowers to Councilwoman Linn and thanked her for everything she had done.

~~MN.~~ Recess into Executive Session.

COUNCILMAN HANNA MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

The Prescott City Council recessed into Executive Session at 4:59 p.m.

*** * BRIEF RECEPTION FOR COUNCILWOMAN LINN * ***

V. EXECUTIVE SESSION

A. Discussion or consultation for legal advice with the attorney or attorneys of the public body, with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS §§38-431.03(A)(3) and (4).

1. Kevin Greif v. City of Prescott

B.* Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS §38-431.03(A)(7).

1. Potential acquisition of property north of Gurley Street in proximity to Granite Creek Park.

VI. ADJOURNMENT

The Prescott City Council reconvened into Open Session at 6:10 p.m. at which time the Regular Meeting of July 12, 2011, was adjourned.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 12th day of July, 2011. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2011.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk