

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, MARCH 13, 2012
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on MARCH 13, 2012, in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the meeting to order at 3:00 p.m.

◆ **INTRODUCTIONS**

Councilman Lamerson said the Elks Opera House Foundation, through Elisabeth Ruffner, sent the Council members an autographed book about the Elks Opera House. Ms. Ruffner said the books were available at the Sharlot Hall Museum Store and they would be signing books at True Value the following Saturday and other places throughout the month.

◆ **INVOCATION**

Reverend Jane Cheek, First Congregational Church of Prescott, Pastor

Reverend Cheek gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Kuknyo

◆ **ROLL CALL:**

Present:

Absent:

Mayor Kuykendall
Councilman Arnold
*Councilman Blair
Councilman Carlow
Councilman Hanna
Councilman Kuknyo
Councilman Lamerson

None

- available by phone

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

None.

I. CONSENT AGENDA

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

- A. Approval of annual payment to the Arizona Department of Water Resources for 2011 withdrawal and use fees in the total amount of \$12,443.10.
- B. Approval to purchase Digital Controller for Police Department HVAC Systems from Chino Heating & Cooling in the amount of \$13,122.15.
- C. Approval of the Minutes of the Prescott City Council Regular Voting Meeting of February 28, 2012.

Councilman Arnold noted that he seconded item II-A, not Councilman Kuknyo. The changes were made on the final record.

COUNCILMAN ARNOLD MOVED TO APPROVE CONSENT AGENDA ITEMS I-A THROUGH I-C, AS AMENDED; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

II. REGULAR AGENDA

- A. Reappointment of member to the Acker Trust Board.

COUNCILMAN KUKNYO MOVED TO REAPPOINT MAGGIE GREENWOOD TO THE ACKER TRUST BOARD, TERM TO EXPIRE MARCH 2014; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- B. Approval to complete two grant applications to the Governor's Office of Highway Safety seeking total funds in the amount of \$50,000.00.

Chief Kabbel reviewed the memo. He noted that the second application was for speed and aggressive driving enforcement. He said that it would be for overtime costs for areas that received a lot of complaints of speed and aggressive driving.

Councilman Lamerson asked if there were fines that went along with the Driving under the Influence (DUI) citations. He asked if the City shared in the revenues from those tickets. Chief Kabbel said yes.

COUNCILMAN HANNA MOVED TO APPROVE COMPLETION OF TWO GRANT APPLICATIONS TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR TOTAL GRANT FUNDS IN THE AMOUNT OF \$50,000.00; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

- C. Award of bid and contract to ABC Asphalt, L.L.C., for the Hornet Drive Pavement Rehabilitation Project in the amount of \$569,933.28.

Mr. Nietupski noted that portions of the roadway would receive a milling and a reapplication of hot mix asphalt. He noted that other portions within that segment would receive a complete reconstruction. He said that it was first platted in 1974 with little maintenance. Unisource Gas reconstructed their facilities within the project limits. He said there was no need to replace water or wastewater facilities. He said the project was funded from the One Cent Sales Tax.

Councilman Hanna asked if Hornet drive was a private street before the City took it over. Mr. Nietupski said that he did not think it was private. Mayor Kuykendall asked if the City kept the millings. Mr. Nietupski said yes, it was a standard process.

Councilman Blair asked if the low bid included City sales tax and if it was before or after tax. Mr. Nietupski said that paying sales tax was an element of all bids.

COUNCILMAN CARLOW MOVED TO AWARD THE BID AND CONTRACT TO ABC ASPHALT, L.L.C., FOR THE HORNET DRIVE PAVEMENT REHABILITATION PROJECT IN THE AMOUNT OF \$569,933.28; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- D. Adoption of Ordinance No. 4828-1228 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a minimal area of Crest Drive right-of-way to the adjacent property owner and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment.

Mr. Nietupski said that area consisted of 338 square feet as depicted on the map shown. He said there was an existing natural gas line and a public utility easement retained under the ordinance of the abandonment so that the facility would be allowed to stay in continuous service. He said that amount of the transaction was \$199.42 plus a transaction fee of \$265.00. The proceeds would credit the One Cent Tax Street Fund.

COUNCILMAN ARNOLD MOVED TO ADOPT ORDINANCE NO. 4828-1228; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- E. Adoption of Ordinance No. 4829-1229 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a portion of Maricopa Drive right-of-way to the adjacent property owners and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment.

Mr. Nietupski noted that the abandonment area was unimproved right of way. He said the terrain had been unimproved since it was platted. The property, by the abandonment, would allow them to obtain some refinancing. He said they would pay the appraised value of \$10,500 plus a \$265 recording fee and escrow fees associated.

He said that he passed out a recommended motion brought up by Councilman Arnold that parcel 107-14-057B, even though it was under their ownership, could become landlocked. The recommendation was to adopt the ordinance subject to either of the following occurring prior to recording the ordinance: 1) the property owners would plat their parcels in the abandon right of way within the City jurisdiction into one parcel or 2) the property owners dedicate in the Recorder's Office an ingress/egress easement benefitting the parcel know as 107-14-057B.

He said they had communicated with all property owners in the subdivision and there was no interest in the abandonment. There were no plans for utility improvements or issues with emergency service to the area or the parcels, which had been confirmed with Police and Fire.

Councilman Arnold asked Mr. Nietupski to explain that the plat was an administrative process. Mr. Nietupski said that it would be administratively approved through Community Development, based on the ordinance.

Councilman Arnold said the recommended motion was acceptable based upon what they knew about the parcel.

Councilman Lamerson asked if either of the recommended amendments to the motion benefited the property owner or the City of Prescott more. Mr. Nietupski said that there was not an impact on the City either way. He noted that the dedication of the ingress/egress easement could be less costly. He said that it would be the digression of the property owner as to which option they would choose. He said if the Council approved the ordinance with that language the ordinance would not be recorded until one of those two events occurred.

Mayor Kuykendall asked the property owner if she had a preference. She said that they had not investigated it as they had just found out about it the prior day.

Councilman Hanna asked Mr. Kidd if they could pass the ordinance with both conditions at the option of the property owner. Mr. Kidd said yes. Councilman Arnold said that it would be 30 days before the ordinance would be available to be recorded.

Mr. Nietupski said the provision was there in the event the land owners decided to sell off a parcel, they would not be able to sell a landlocked parcel.

The property owner asked if it would be a public or private easement. Mr. Nietupski said that he interpreted it to be a private easement for ingress/egress to the benefit of that specific parcel.

COUNCILMAN LAMERSON MOVED TO ADOPT ORDINANCE NO. 4829-1229, SUBJECT TO EITHER OF THE FOLLOWING OCCURRING PRIOR TO RECORDING OF THE ORDINANCE: 1) THE PROPERTY OWNERS REPLAT THEIR PARCELS AND THE ABANDONED RIGHT-OF-WAY WITHIN CITY JURISDICTION INTO ONE PARCEL OR, 2) THE PROPERTY OWNERS DEDICATE AND RECORD IN THE OFFICE OF THE YAVAPAI COUNTY RECORDER AN INGRESS/EGRESS EASEMENT FOR AND TO BENEFIT OF ACCESSOR'S PARCEL NUMBER 107-14-057B; SECONDED BY COUNCILMAN ARNOLD; PASSED UNANIMOUSLY.

- F. Adoption of Ordinance No. 4830-1230 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting water and sewer utility easements from Prescott Commercial Properties, L.L.C., and Burro Creek, L.L.C., and authorizing the Mayor and City staff to take all necessary steps to effectuate such acceptance of water and sewer

Mr. Nietupski said the item was associated with the new Honda dealership on Willow Creek Road. He said the easements were required due to the construction of the main lines that were installed to provide service to their property and to the adjacent property.

He noted that the motion did not say “and declaring an emergency” in the agenda, but it was requested to accept the ordinances due to the recent change in ownership. The new owners had ratified the easements and they had been recorded.

Councilman Blair asked why they would accept the sewer and water, but not the storm water easement. He said that it did not seem practical. Mr. Nietupski said it was a long standing policy issue, with respect to drainage maintenance and responsibility. He noted that on private, commercial and most subdivisions, drainage facilitates were the responsibility of the property owner for maintenance unless the facilities were within a right of way or had a specialized function that would require the City to maintain it.

Mayor Kuykendall asked Mr. Kidd if the emergency clause had to be added to the motion. Mr. Kidd said yes, in order to make it immediately effective.

COUNCILMAN ARNOLD MOVED TO ADOPT ORDINANCE NO. 4830-1230 AND DECLARING AN EMERGENCY; SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.

- G. Approval of a professional services agreement with ARCADIS U.S., Inc., for completion of the City's Wastewater Pretreatment Program in an amount not to exceed \$55,000.00.

Mr. Nietupski said the agreement would provide for the City's Wastewater Pretreatment Program and would allow them to implement the final phase of program development in order to comply with Federal and State regulations. He said it was a requirement under the Clean Water Act. He said Council approved the original contract in 2005.

The third phase of the project involved a technically based local limits study. He noted that it was completed by Black & Veatch under the City's Waste Water Master Plan project.

Councilman Arnold asked if the \$30,000.00 for Fiscal Year 2013 would come out of the Sewer Fund. Mr. Nietupski said yes. Mayor Kuykendall asked if they had the ability to commit the money from that fund when the budget had not been set.

Mr. Nietupski said they had the spending authority in the current budget but they would not make that expenditure until Fiscal Year 2013.

COUNCILMAN LAMERSON MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH ARCADIS U.S., INC., FOR COMPLETION OF THE CITY'S WASTEWATER PRETREATMENT PROGRAM IN AN AMOUNT NOT TO EXCEED \$55,000.00; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

- H. Adoption of Resolution No. 4124-1234 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3232 regarding the filling of Council vacancies, and declaring an emergency.

Councilman Arnold said that they should have a discussion about what their next step would be. He proposed to adopt Resolution 4124-1234, further direct staff to prepare between one to three options for the Council to consider on filling the vacancy and declaring an emergency. The Council agreed.

Daniel Mattson said that passing the resolution was a good idea because Resolution 3232 was a pain. He said they should talk Len into doing it since he had experience and the City had the nameplates.

COUNCILMAN ARNOLD MOVED TO ADOPT RESOLUTION 4124-2434; FURTHER DIRECTING STAFF TO PREPARE BETWEEN ONE TO THREE OPTIONS FOR THE COUNCIL TO CONSIDER RELATED TO THE SELECTION PROCESS TO FILL THE VACANCY ON THE COUNCIL AND DECLARING AN EMERGENCY.

Mayor Kuykendall asked if he heard incorrectly and said it was 4124-1234 that they were speaking about. Councilman Arnold said it was 4124-1234.

SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

- I. Acceptance of resignation of Councilman John Hanna effective at the conclusion of the Regular Meeting of March 27, 2012.

COUNCILMAN LAMERSON SAID THAT WITH BEST WISHES HE MOVED TO ACCEPT THE RESIGNATION OF COUNCILMAN JOHN HANNA EFFECTIVE AT THE CONCLUSION OF THE REGULAR MEETING OF MARCH 27, 2012; SECONDED BY COUNCILMAN ARNOLD; PASSED 5-1 WITH COUNCILMAN BLAIR CASTING THE DISSENTING VOTE AND COUNCILMAN HANNA ABSTAINING.

- J. Recess into Executive Session.

COUNCILMAN ARNOLD MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

The Prescott City Council recessed into Executive Session at 3:40 p.m.

III. EXECUTIVE SESSION

- A. Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS §38-431.03(A) (3).
 - 1. Employee Benefits
- B. 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.
 - 2. Airport runway project.

IV. ADJOURNMENT

The Prescott City Council reconvened into Open Session at 6:39 p.m. at which time the Regular Voting Meeting of March 13, 2012, 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 13th day of March, 2012. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2012.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk