

PRESCOTT CITY COUNCIL
SPECIAL MEETING
TUESDAY, APRIL 17, 2012
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL held on APRIL 17, 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.

◆ PLEDGE OF ALLEGIANCE Mayor Kuykendall

Mayor Kuykendall led the Council and audience in the Pledge of Allegiance.

◆ ROLL CALL:

Present:

Absent:

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

None

Councilman Lamerson introduced Mrs. Scamardo and her daughters.

I. SPECIAL RECOGNITION

A. Administer Oath of Office and Seating of Len Scamardo as Councilmember, term to expire November 2013.

The City Clerk, Ms. Burke, swore Mr. Scamardo into office.

II. 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. Purchase of used 1998 Volvo/Leech rear loading refuse truck (119,000 original miles) from City of Mesa Solid Waste in the amount of \$20,000.00.

Councilman Arnold requested that the item be removed from the Consent Agenda for further questions.

Councilman Kuknyo recused himself for potential conflict of interest.

Councilman Arnold noted that there were some example photos of the truck in question on line, in the agenda packet. He said those photos were just examples and then showed pictures of the actual truck. He asked for a description of the vehicle and the purpose of its use.

Stephanie Miller, Field and Facilities Services Director, gave a description of the truck. Councilman Arnold asked if she had a chance to mechanically inspect the vehicle. Ms. Miller said yes; the staff, including someone from the Central Garage inspected it and the City of Mesa provided maintenance records. She noted that they were getting a good deal.

COUNCILMAN ARNOLD MOVED TO APPROVE CONSENT AGENDA ITEM II-A; SECONDED BY COUNCILMAN CARLOW; PASSED 6-0 WITH COUNCILMAN KUKNYO ABSTAINING.

III. REGULAR AGENDA

- A. Adoption of Resolution No. 4125-1235 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Settlement Agreement pertaining to property commonly referred to as Centerpointe East Commerce Park, amending all prior resolutions and development agreements pertaining to properties located within the Centerpointe East Development as provided in the Settlement Agreement; and authorizing the mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Kidd noted that the item was a settlement of a claim that was filed a number of years ago, relating to the relocation from Side Road interchange to Granite Dells Parkway. He said that as a result of time passing and a bridge being built, the location did not meet Arizona Department of Transportation (ADOT) standards.

The City hired Parsons Engineering to evaluate where to put the interchange. They determined that the current location was the most favorable at Granite Dells Parkway. He noted there was a claim filed by

the property owners in the amount of \$2 million to \$4 million in damages. He said they offered settlement in the amount of \$2,700,000.00.

He noted that the City had negotiated with the property owners for the past several years and came up with the current, proposed settlement agreement. The City would walk away from claims the City would have against the property owners for contributions to the interchange and Side Road intersection and the property owners would walk away from the \$2.7 million in claims. Each side would bear their own costs and attorneys fees

Jim Holt, 2893 Venture Drive in Centerpointe East, thanked the Mayor and Council for taking the matter into consideration. He said it was a good agreement for both the City and the property owners. He said he was also the president of the Centerpointe East Property Owners Association.

Daniel Matson asked what the net result of the suit was and how much it would cost the City to cover their share of the interchange. Mr. Kidd said the property owners waived their claim for \$2.7 million and the City waived potential collections of \$480,000, which would be the maximum the City could collect. He said there was a question as to whether that would be collectible.

COUNCILMAN LAMERSON MOVED TO ADOPT RESOLUTION NO. 4125-1235, AUTHORIZING THE MAYOR AND STAFF TO EXECUTE ALL SETTLEMENT DOCUMENTS AND TO ISSUE A REFUND TO CERTAIN CENTERPOINTE EAST COMMERCE PARK PROPERTY OWNERS IN THE AMOUNT OF \$3,282.28; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

- B. Approval of agreement re relocation of FAA airport navigational systems associated with the Runway 21L-3R Safety Area Improvement Project at the Prescott Municipal Airport.

Mr. Vardiman said the item was the last requested component anticipated to come before Council related to runway 21L3R. He said the Federal Aviation Administration (FAA) owned and operated navigational equipment near that runway. He noted that it was required for safe operations during bad weather. The equipment needed to be shifted to coincide with the end of the runway.

He said, due to the age of the existing equipment, it was not able to be salvaged. The City had a reimbursable agreement with the FAA for \$1.559 million, which was 95 percent reimbursable by the FAA and 2.5 percent was reimbursable by the State aeronautics. He noted the City's share to be \$38,979.47, which would require an increase in the grant.

Councilman Lamerson asked what would happen if they did not proceed with that part of the project and what future complications it would cause. Mr. Vardiman said the operational viability of the runway would be severely reduced if they did not proceed with the project. He said if the City were to choose not to pursue the reimbursable agreement, the FAA could say the operational viability of the runway was no longer satisfactory and the City would not be able to serve the users of their facility. He noted that it did not enhance the operational viability; it just maintained the status quo.

He said another potential impact was that if they did not enter into the agreement, it would stop the project. If they stopped the work completely, the City would be subject to inquiry by Congress as to why they did not meet federal regulations. He said there could also be issues with future grant funding. It would show an unwillingness to improve the safety of the airport by the City of Prescott.

Councilman Arnold asked why the item was not included in the original project. Mr. Vardiman said that they did not receive it in time. He said they began communicating with the FAA in September of 2010, and in June 2011, they got a temporary work through going and finally heard back from them the beginning of November. Councilman Arnold asked if they would be guaranteed that the City would receive the reimbursement. Mr. Vardiman said yes.

Councilman Arnold asked who would be doing the work. Mr. Vardiman said the work would be done by the FAA. He said that it would go to a national bid. Councilman Arnold asked if the City of Prescott would be responsible for overseeing the application of the installation. Mr. Vardiman said the City was responsible for site preparation and grading. Councilman Arnold asked who would do the work that the City was responsible for. Mr. Vardiman said that it would be done by A. Miner Contracting.

Mayor Kuykendall asked why the amount was not included in the contract with A. Miner Contracting. Mr. Vardiman said that A. Miner's contract included the portions of work that were to be done by the City per the terms of the agreement. He noted that the work for the item was separate and in addition to the work that was contemplated in the A. Miner contract. He said the work would be completed by the FAA.

Mayor Kuykendall noted that Item C said "the sponsor will perform the following activities" followed by a list of 19 items that the City would be responsible for. He asked how they would pay for that. Mr. Vardiman said the items were not included in the dollar amount of the agreement, but

were included in the dollar amount of the A. Miner contract. Mayor Kuykendall said the City would have had knowledge that the item was just around the corner, when they created the contract with A. Miner. Mr. Vardiman said that the City did know that. Mayor Kuykendall noted that they were asked to come up with \$39,000 additional money after they had contributed \$155,000 to the other contract with A. Miner.

He asked Mr. McConnell if the City could just reach out and grab money from a capital fund when they needed it. He said they were in the middle of a budget process and looking for every dollar they could find. He said that if it was another department, it would be charged as additional debt. He asked if there were two sets of values.

Mr. McConnell, City Manager, said they had seen an example of how they needed to look at projects more programmatically than project oriented. He said that some people knew how various projects would fit together to comprise an operational whole. He noted that in November, there was a package of items that needed to be done and the clarity got lost in the evaluation of bids and all of the things that they had talked about when the construction contract was awarded.

He said that when it came to the airport, the City was not in control. They owned the airport, but did not control it. The FAA controlled the airport through all of their procedures. He said if the City did not comply, the airport would have a severely curtailed operation. There would be no instrument landings. He said the airport was very complicated in terms of requirements. He noted they could have been clearer regarding the current item so there was no surprise

Councilman Kuknyo said that would be appreciated. He said they would like to have a heads up of what was around the corner.

Mr. Matson said that they would not be able to have instrument flight rules (IFR) landings while the equipment was out of place. He asked how long the equipment would be out of place. He asked if there was any way to pressure the FAA to get it done quickly. Mr. Vardiman said they were planning on having the equipment in, calibrated and certified by the end of November.

Mr. Matson noted that they would go through monsoon season without the equipment. Mr. Vardiman agreed and said that they had other instrument approaches, but all users were not able to utilize those approaches all of the time. He noted that once the agreement was signed with the FAA, it would take six weeks for their funding mechanisms to get the purchase order issued.

Councilman Kuknyo asked if there was any way to keep the old system operational while the new system was being installed. Mr. Vardiman said there was not because the cables went through the same lines and they ran on the same power feed.

Mayor Kuykendall asked if they would get into some of the lighting systems when they moved the pavement 400 feet. Mr. Vardiman said yes, it would need to be relocated. Mayor Kuykendall asked if the light would be outside the fence and road at the out limits of the equipment. Mr. Vardiman said that out limits was outside the fence, but still on City property. He said the FAA would take care of the fencing as part of the project.

COUNCILMAN ARNOLD MOVED TO ACCEPT AND ENTER INTO A REIMBURSABLE AGREEMENT WITH THE FAA FOR RELOCATION OF THE AIRPORT NAVIGATIONAL AIDS; AND AUTHORIZE AN INCREASE IN THE FAA AND ADOT GRANT FUNDING AMOUNTS, FURTHER AUTHORIZING THE MAYOR AND CITY STAFF TO EXECUTE ANY AND ALL RELATED DOCUMENTS AND TAKE ANY ACTIONS NECESSARY TO ACCOMPLISH THE FOREGOING.; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

C. Discussion / direction re employee benefits.

Mayor Kuykendall asked the audience to let Ms. Zelms complete her presentation prior to asking questions. Mr. Kidd recused himself from the discussion based on a conflict of interest.

Ms. Zelms, Deputy City Manager, said the item would offer an opportunity for the Council and employees to review the proposed changes to benefits and the retirement bonus. She said the item had been a series of discussions that the Council had been involved in over the past few years as the City addressed issues it faced, due to the economic downturn. She noted that different programs, policies, and services had to change over the years to come into alignment with the new revenue reality.

She noted that the City had been able to address the issues fairly well, without having across the board pay cuts or unpaid furlough days, like other government agencies have had to institute. She showed a PowerPoint presentation which covered: (see Exhibit A1)

- GOALS OF IMPLEMENTING A NEW BENEFIT SYSTEM
- CURRENT LEAVE BENEFITS
- CURRENT LEAVE BENEFIT – SEPARATION PAYOUTS

- CURRENT RETIREMENT APPRECIATION BONUS
- \$ RESERVES REQUIRED FOR EXISTING BENEFITS

She noted that separating from the City meant that the employee left employment because they retired, resigned or it was due to disciplinary purposes.

- PROPOSED CHANGES TO EXISTING BENEFITS
- WHAT IS PAID TIME OFF (PTO)?

She said that many organizations in public and private sectors were moving toward a PTO plan.

- NEW PAID TIME OFF PROGRAM

She said that less time would be accrued by the employees. There would be a policy in place for how the hours could be used and paid out. One of the restrictions that had not been applied as strictly as it should have been in the past was that the maximum accrual amount would be strictly enforced.

- SUMMARY POINTS

Councilman Carlow reiterated that no earned time would be lost by any employees as far as sick and vacation time went. Ms. Zelms said he was correct. He asked if the City offered short term or long term disability. Ms. Zelms said the City provided access to a short term disability program for employees, through AFLAC. She said it was paid by the employee, if they chose to utilize the plan.

Councilman Carlow asked if an employee would get what they had accumulated if he left due to disciplinary action. Ms. Zelms said yes, if he had earned the time. Councilman Carlow said that it would take some time for the liability numbers to substantially decrease. He asked if the plan would affect any administrative time off or comp time. She said they would not be affected and they would still have the paid holidays that were typical to the City.

Councilman Arnold said they had been in several Executive Sessions on the topic. He said that he had the opportunity to meet many City employees and he wanted them to know that the Council was taking the item seriously, as they did with every item. He said that they wanted to make sure that they were not taking anything away from anyone. He

noted that they were talking about freezing the current vacation and sick time. He asked what the average payout for an employee leaving the City was. Ms. Zelms said that it was not uncommon for an employee to receive \$20,000 to \$30,000.

Councilman Arnold said that, looking extremely long term, the current system did not appear to be sustainable. He asked if the number of liabilities continued to grow. Ms. Zelms said it was a matter of allocation of resources. If they wanted to allocate a high amount of resources toward an existing program, it would be a question of whether it would be realistic when they were faced with many other needs and requirements that should be provided to the residents.

Councilman Arnold said they were trying to bring it into line with public sector benefits. He asked if Prescott was the only City in Arizona who provided the retirement appreciation bonus. Ms. Zelms said she was not aware of another city that provided that bonus.

Councilman Kuknyo said that Council got a lot of input from City employees about the topic. He said that if it was even implied that an employee earned something, he thought they should get paid out.

Councilman Scamardo said that it looked like staff wanted to have something in place by July 2012 and he did not know if they would have everything in place in May that everyone would be agreeable to. He said that it seemed like a tight timeline.

Mr. McConnell said if Council gave direction to proceed with the preparation of an ordinance, staff would send an email to all City employees with an explanation of the presentation that was user friendly. He said there were about six pieces to the plan that anyone could sit down with and understand.

Councilman Blair asked how many paid holidays the City received. Ms. Zelms said that it was 10 paid holidays per year. Councilman Blair asked when the retirement appreciation bonus was implemented and why. Ms. Zelms said that it had been in place since the early 90's to incentivize people to stay with the City for a longer period of time. She said the question was whether they had the same concern in the employment market.

Councilman Blair asked how accumulated overtime hours were calculated and where they would be held in the new system. Ms. Zelms said the overtime was on a payroll by payroll basis. Time in excess of the schedule was paid out as overtime or comp time. Councilman Blair asked

if the hours were able to be banked. Ms. Zelms said that overtime pay was paid out in the paycheck in which it was earned.

Councilman Blair asked if they needed to be concerned with the retirement match. Ms. Zelms said the retirement match for the various Arizona pension systems was separate from that program. She said that it was something that most cities in Arizona were concerned about. Councilman Blair asked if Prescott was mandated by the State to follow those rules since they were a “Home Rule” city. Mr. McConnell said that, as it related to their discussion, the answer was yes, because the City was a voluntary participant in the Arizona State Retirement System. He noted that there were towns in Arizona that chose not to participate in the system. He said that once the city was in, it was in.

Councilman Blair asked why they did not have scan cards to keep track of hours. He asked if they were moving in that direction. Mr. McConnell said that it was about time keeping, which usually involved two discussions. The first would be about hourly employees, who were eligible for overtime. The second group was exempt from overtime. He said it was not a problem for hourly employees to punch in, but it was not quite as clean with exempt employees who were salaried. He said that there was a lot of case law on the latter category when the requirements and procedures for hourly employees were imposed on exempt employees.

He noted that if the City adopted a card swipe for all employees, the use of the information would be different. It would be to monitor the comings and goings of exempt employees. Councilman Blair said that big employers saved many hours by using swipe cards.

Councilman Lamerson said that it appeared that staff listened to the Council’s major concerns with regards to keeping everybody whole. He said that he would find it difficult to warm up to the people he decided to hire, questioning their integrity or honesty. He said that he would like to think that the City employees were part of the team that provided the services that the taxpayers paid for.

He said that at no time would he feel comfortable if some of the public safety officers were getting close to their bank and all of a sudden have something transpire that would provoke an opportunity to not work overtime or compromise their delivery of service.

Councilman Kuknyo asked if at midnight July 1, everyone would be at zero and unused vacation time would be in a bank for them to use. Ms. Zelms said he was correct. Councilman Carlow asked if exempt employees were the only ones that got administrative leave. Ms. Zelms said yes.

Mayor Kuykendall said that he had been at the City for two and one half years and it did not take long for him to see that there was a problem. He said the City was not taking in enough money to pay for the services they had been providing. He said that it was important to put something in place that would sustain the obligations the community had to its employees.

He noted that the ability of the City to increase its sales tax revenue was difficult in today's market. To sustain the services the City was providing, and to be sure there would be money available to pay commitments, the City needed to do something different. He said the four to five percent gain the City had in sales tax had been more than offset with additional expenses and the cost of doing business.

He noted that the departments that had the ability to sustain themselves were Water, Sewer and Solid Waste, because the rates could be raised. He said that when it came to public safety, that came out of the General Fund which was sales tax. The City was paying 68 percent of the General Fund on public safety. He said that left the Parks and Recreation Department, Library and several other departments that had to be paid from that fund. The City of Prescott did not have the ability put a property tax on some of their services as their neighbors did, i.e. fire protection. He noted that Central Yavapai Fire District provided that protection and that was on their property tax bill.

Mr. McConnell said that upon Council consensus, they would draft an ordinance to be brought back in May. He noted that it would then be the opportunity for public input on that item.

Mr. Matson asked how they were going to deal with the cost of exodus at the end of June. He said that he was afraid of a huge cost and a large number of people to replace.

Mr. McConnell said the City of Prescott had substantial financial reserves. As important, or more, was what the operational effect would be. He noted that there were 500 employees and they would get through it. Ms. Zelms noted that the employees who were eligible for the retirement bonus as of June 30 would keep that eligibility until they separated from City service.

Sergeant Tim Fletcher, City employee, said that he had been with the City for 16 years, but would not be eligible until July 2013. He asked if he would no longer qualify for the bonus. Ms. Zelms said that he would no longer qualify.

Fireman Dan Bates, City employee, said they should think about the employee who was promised the bonus after he had worked for the City ten years. He said that he was getting the rug yanked out from under him. He said that when they had done pay studies, it was often brought up that the reason Prescott's pay was lower than comparable cities was because of the benefits Prescott offered. He said it did not seem fair to take the benefits away and asked the Council to consider it.

Ms. Zelms said the retirement system had a different set of rules, depending which system the employee was in. She said the Public Safety system required that they had 20 years of service with Public Safety. She said the requirement in the City Code was that if they separated from City service and they had 10 consecutive year of service with the City and they were retirement eligible in their respective pension system they would qualify. However, the Public Safety system required 20 years of paying into Public Safety Personnel Retirement System (PSPRS).

Constance Crotty, Prescott, noted that the Council brought up the subject of raising money through the water department, so she felt she could talk about her problem. She said she spoke with Councilman Chris about the matter a few days earlier. She noted that she began to have severe headaches while helping a friend move in Lake Havasu City. Mr. McConnell noted that if the attorney were there, he would advise that the subject on the agenda pertained to employee benefits and the Council could not veer off that topic, as a matter of open meeting law.

Mayor Kuykendall noted that they were off subject. He said there would be a time in the future that she could speak and today was not that day. He said there was a procedure to follow, through the City Clerk, to be heard the first Tuesday of every month.

IV. ADJOURNMENT

There being no further business to be discussed, the Special Meeting of the Prescott City Council held on April 17, 2012, adjourned at 4:18 p.m.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk