

PRESCOTT CITY COUNCIL
SPECIAL MEETING
FRIDAY, JULY 13, 2012
PRESCOTT, ARIZONA

◆ **CALL TO ORDER**

Mayor Kuykendall called the meeting to order at 2:00 p.m.

◆ **PLEDGE OF ALLEGIANCE**

Councilman Arnold led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL**

Present:

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

Absent:

None

I. REGULAR AGENDA

A. Campaign Sign Free Zone(s):

1. Adoption of Resolution No. 4141-1301 establishing Campaign Sign Free Zones(s); **OR**
2. Adoption of Resolution No. 4141-1301 establishing Campaign Sign Free Zones(s) and declaring an emergency.
3. Adoption of Ordinance No. 4839-1302 amending City Code Sections 8-2-3 and 8-2-4 to limit campaign signs in certain public rights-of-way; **OR**
4. Adoption of Ordinance No. 4839-1302 amending City Code Sections 8-2-3 and 8-2-4 to limit campaign signs in certain public rights-of-way and declaring an emergency.

Mr. Guice introduced the item and said that two exclusion zones were proposed. He showed maps and explained the effective dates.

Mr. McConnell said that even though segments of State Route (SR) 89 may have been removed, or were no longer denoted the statute provided that state routes and state highways were sign-free zones. Mayor Kuykendall noted that there were signs on SR 89 and asked if they should not be there. Mr. McConnell said they should not.

Councilman Blair noted that the signs they were talking about were on State rights-of-way and not on private property. Mr. Guice said he was correct. Councilman Blair said it bothered him to have to get a map to figure out where it was OK and not OK to put up signs. He asked how much it would cost to enforce and if there would be a penalty.

Mr. Guice said it referenced back to City Code Section 1.3. Councilman Blair asked if the people who put up the sign would be responsible or would it be the candidate. Mr. Neil said the candidate would be responsible. Mr. Podracky said that the penalty provisions were found in the City Code Section 1-1-3 and would accumulate daily, up to \$1000.00 per day.

Councilman Lamerson noted that Mr. Neil said that the City Code did not mean anything because the State laws were more important than Prescott's laws. Mr. Neil said that he indicated that if the City did not do anything, the City would not be able to remove the signs because the Statute said they could be in the areas of rights-of-way if they had not established a sign-free zone.

Councilman Kuknyo asked if they would allow signs on buildings or light poles. He said they were not trying to restrict free speech and that some places were just not appropriate for signs. He said they should lobby the State legislature to clean up the law.

Councilman Arnold asked if Code Enforcement had checked to see if the current signs were in compliance with the law. Mr. Guice said yes. Councilman Arnold said that he was willing to support the three square mile plan but he did not think it was appropriate to put it into effect immediately. He thought they should work with the State and the League to modify or repeal the law.

Councilman Scamardo said that after public meetings regarding the law, the Unified Development Code (UDC) decided the best thing to do would be to follow the ordinance and create a sign-free zone, utilizing the three square miles. He said they then sent it to Planning & Zoning, who had two meetings about it. They concurred with the UDC to comply with the law and take advantage of the loop hole. He said they should comply with the law, pass the resolution with the emergency clause for the yellow zone

showed, and let the rest go into effect after the election, which would be choice number two.

He noted that they received new language that morning and he wanted it read into the minutes. Mr. Neil noted that the Charter provided that if an ordinance or resolution had been posted 48 hours in advance, it did not have to be read. Any changes made within that time would have to be read. He noted that it would be once the motion had been made for the adoption of the ordinance.

Councilman Lamerson said there were limitations within the Freedom of Speech. He said the Council did what had been recommended, maximizing the three square miles, evoking an emergency clause and going back to what they had prior. Councilman Scamardo said that he was confused as to which resolution would apply. There was discussion concerning the options and the reason for the emergency clause.

Councilman Carlow said that he agreed with the declaration of an emergency. Councilman Kuknyo said that he would support an emergency to protect the major tourist draws. Councilman Arnold noted that there was not a staff recommended motion. He asked if it was appropriate to enact the law in the middle of an election.

Mr. Neil said it was legal, but Councilman Arnold would have to decide if it was appropriate. Councilman Arnold said that he did not like the idea of changing the rules midstream. Councilman Lamerson said they had to stand up and make a decision for themselves and take care of the properties they owned. Mayor Kuykendall said that it was important to do it immediately, before the National signs hit the streets. He said they should do what they were going to do right then. He noted that they were not taking any rights away from anyone.

Daniel Mattson, Prescott, said that he agreed with Councilman Kuknyo and he would not want a sign in front of his house that he did not agree with. He said the penalties were discussed in 1-3-1 and 1-3-2. He said the penalty said that if it was not specified within an ordinance, it was \$50.00 per day.

George Sheats, Prescott, noted that the emergency clause should be used on both areas and that he agreed with Mr. Mattson.

Dick Busby, Prescott, said that he followed the rules and now he was told that he had to take the signs down that he spent money on. He said he believed in generating tourism in the town and that tearing up the streets during tourist season would also deter the tourists.

Craig Brown said that he failed to see an emergency. He said that if they were going to enforce the rules, they would have to look at rodeo signs next year.

Bob Bokrath said he agreed with Mr. Mattson. He said that it was not right to have to put up with the signs for the next four months before the election. He noted that the rodeo and other City activities did not last for four months and the political signs should not be compared. He said that it was currently the time to act.

Mayor Kuykendall said that he did not know why they were making such a big deal of it and that it was very easy to ask permission to put signs up with the property owner's permission. He said they were trying to do what was best for the entire community.

Sandra Smith said that someone was paying attention and many of the signs were gone. She noted that freedom was not a license, but a responsibility.

Councilman Arnold asked how they were going to enforce it. Mr. McConnell said that Council had seen the proposal to enact areas A and B immediately. He noted that it would create issues regarding enforcement. He said that it was not realistic to distinguish which signs were there one day and not the other. There was no required permit to place a sign in the public right-of-way. He suggested contacting the sign companies or people running for office to let them know that the Council took action on the sign-free zone and it would be in their best interest to relocate the signs to private property.

Mayor Kuykendall said they had to rely on the integrity of the candidates.

COUNCILMAN BLAIR MOVED THAT THEY INCLUDE ZONE 1 AND 2 WITH THE EMERGENCY CLAUSE; SECONDED BY COUNCILMAN CARLOW

Mayor Kuykendall said that he wanted to make sure they were meeting the standards on the motion. Mr. Neil said he was not sure if he understood. He thought that Councilman Blair moved to adopt Resolution 4141-1301 with areas A and B, with an emergency clause. Councilman Blair said that was correct.

Mr. Neil said they had to act on the resolution first, before they proceeded with the ordinance. He said if the change was made, the Clerk would need to read the change.

Ms. Dudek read Section II, that the City of Prescott designates as Zone 2, the road rights-of-way, as depicted on the map labeled Attachment I, within Area B as a significant commercial/tourism zone, and therefore designated a campaign sign-free zone to become effective immediately upon the effective date of this resolution.

Councilman Kuknyo asked if he were to vote no, could he make a motion to make Zone A an emergency and Zone B effective on a late date. Mr. Neil said if the motion failed, he could do that.

Mayor Kuykendall asked if it would require six votes due to the emergency clause. Mr. Neil said yes.

Mr. Neil said that the emergency clause affected the public health, safety and welfare of the community. Based on the resolution that was in front of them, the Council was saying that if they enacted it as an emergency, in their opinion, it would have that impact on the revenue stream that came into the town. Councilman Scamardo said that was what they indicated as a finding.

Councilman Lamerson said the emergency was based on the economic emergency of the tourism designation.

MOTION FAILED 5-2, WITH COUNCILMEN ARNOLD AND KUKNYO CASTING THE DISSENTING VOTES.

COUNCILMAN KUKNYO MOVED TO ADOPT AN EMERGENCY CLAUSE FOR ZONE A AND INSTITUTE THE OTHER RESTRICTIONS ON THE NOVEMBER DATE.

Mr. Neil said that was the way the Ordinance was posted. He said that if they made a motion for the approval of Resolution 4141-1301, as posted, it would take care of that.

Mr. McConnell said that he understood the motion to move Resolution 4141-1301 with the emergency clause, but the version that Mr. Guice presented that day designated as Zone 1 with an Area A, immediately effective on passage of the resolution and in Zone 2 that area in blue being effective November 23. He said that was the draft which was distributed at the meeting that day. He said it was not the version posted earlier.

Mayor Kuykendall said that if he understood, that would leave all other sections of town wide open even when the National election came along, they would be able to use the right-of-way. Councilman Kuknyo said that was correct. He said there were a lot of signs out there already and they

would drop off after the primary. He did not want people who already had signs up to have to move them. Mayor Kuykendall said that nothing that was up would be touched, only additional signs after that day.

Councilman Scamardo said that he would like to change the day for Section 2, Zone 2, Area B, the blue area with most of the red lines; the Ordinance would be a normal ordinance that would go through 30 days after it was approved by Council, instead of waiting until November. He said it would be 30 days from that day.

Mr. Podracky said that Title 16 limited it to campaign signs and ballot measures for the next election. He said it did not include other political signs. Only signs that could go in the rights-of-ways were campaign signs supporting ballot measures and campaign signs.

Mayor Kuykendall said the ballot language read that the sign supported or opposed a candidate for public office, or it supported or opposed a ballot measure.

Councilman Scamardo asked Councilman Kuknyo to modify his motion to, rather than waiting through the primary period, the ordinance under Section II, which was Zone B, would go into effect 30 days after Council approved it. Councilman Blair said that would make it more difficult to enforce. He noted that after 30 days, someone might put signs up and the City would not know when they were put up.

Mr. Mattson said that he had a camera with a time stamp and Global Positioning System (GPS) and they would have 30 days to document it. He said that he would volunteer to take the pictures. Councilman Kuknyo said that he would withdraw his motion as he was under the impression that signs would have to be moved that were already up.

Mr. Neil said there could be a motion made to reconsider by the majority.

Mayor Kuykendall noted that the motion had been made and seconded and it had to be brought back to the floor.

COUNCILMAN KUKNYO MADE A MOTION TO RECONSIDER THE ORIGINAL MOTION; SECONDED BY COUNCILMAN BLAIR; MOTION PASSED 6:1 WITH COUNCILMAN ARNOLD CASTING THE DISSENTING VOTE.

COUNCILMAN SCAMARDO MOVED THAT THE CITY OF PRESCOTT DESIGNATE ZONE 1 AND ZONE B, THE ROAD RIGHTS-OF-WAY, AS DEPICTED ON THE MAP LABELED ATTACHMENT 1 WITHIN AREA A AND AREA B

Councilman Blair said that he read it incorrectly. He requested that Ms. Dudek read it.

Ms. Dudek read the motion as -

SECTION I OF THE CITY OF PRESCOTT DESIGNATES AS ZONE I, THE ROAD RIGHTS-OF-WAY, AS DEPICTED ON THE MAP LABELED ATTACHMENT I AREA A AS A SIGNIFICANT COMMERCIAL TOURISM ZONE AND THEREFORE DESIGNATED A CAMPAIGN SIGN-FREE ZONE IMMEDIATELY UPON THE EFFECTIVE DATE OF THIS RESOLUTION. SECTION II THAT THE CITY OF PRESCOTT DESIGNATES AS ZONE 2 THE ROAD RIGHTS-OF-WAY AS DEPICTED ON THE MAP LABELED ATTACHMENT I WITHIN AREA B AS A SIGNIFICANT COMMERCIAL TOURISM ZONE AND THEREFORE DESIGNATED A CAMPAIGN SIGN-FREE ZONE TO BECOME EFFECTIVE IMMEDIATELY UPON THE EFFECTIVE DATE OF THIS RESOLUTION.

COUNCILMAN SCAMARDO MOVED TO ADOPT THE RESOLUTION AS READ; SECONDED BY COUNCILMAN CARLOW; PASSED 6-1 WITH COUNCILMAN ARNOLD CASTING THE DISSENTING VOTE.

Mayor Kuykendall said they had to go through Ordinance 4839-1302, which would need to be declared an emergency. Mr. Neil said that was correct and it would need to read with the changes.

Mr. Guice said there was one change in Section 4 on the second page, which was a scrivener's error and should read that the Mayor and staff are hereby authorized to take all necessary steps to effectuate such amendment. He said they should delete the word "rezoning" and insert the word "amendment".

Mr. McConnell said the motion would be to adopt the ordinance with the emergency clause and the amended wording read by the Clerk.

Ms. Dudek read the motion as:

MOVE TO ADOPT ORDINANCE NO. 4839-1302, AMENDING CITY CODE SECTIONS 8-2-3 AND 8-2-4, TO LIMIT CAMPAIGN SIGNS IN CERTAIN PUBLIC RIGHTS-OF-WAY AND DECLARING AN EMERGENCY WITH THE CHANGE ON PAGE 2 FROM REZONING TO AMENDMENT.

COUNCILMAN SCAMARDO MOVED TO ADOPT THE ORDINANCE AS READ; SECONDED BY COUNCILMAN LAMERSON; PASSED 6:1 WITH COUNCILMAN ARNOLD CASTING THE DISSENTING VOTE.

II. ADJOURNMENT

There being no further business to be discussed, the Prescott City Council Special Meeting of July 13, 2012, adjourned at 3:31 p.m.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

LYNN J. MULHALL, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the City Council of the City of Prescott, Arizona held on the 13th day of July, 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

LYNN J. MULHALL, City Clerk