

PRESCOTT CITY COUNCIL  
SPECIAL VOTING MEETING  
TUESDAY, DECEMBER 11, 2012  
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL VOTING MEETING OF THE PRESCOTT CITY COUNCIL HELD ON DECEMBER 11, 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** by Councilman Carlow

◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL

Mayor Kuykendall  
Councilman Arnold  
Councilman Blair  
Councilman Carlow

Councilman Kuknyo  
Councilman Lamerson  
Councilman Scamardo

**I. REGULAR AGENDA**

- A. Adoption of Ordinance No. 4844-1243 authorizing sale of City-owned property at 117 East Gurley Street commonly referred to as the Elks Opera House portion of the Elks Building.

City Manager McConnell introduced the item. The Ordinance, with emergency clause, will approve the sale of the City's property interest (the Elks Opera House) located within the Elks Building in downtown Prescott. The City has negotiated an agreement for sale with the Elks Theater and Performing Arts Center, Inc., which is an Arizona Non-Profit Corporation. The purchase price is \$1.3 million dollars. From that the City will credit to the Buyer at closing the amount of \$300,000.00 for work to be commenced as soon as permits are obtained. Close of escrow is to occur on or before December 21, 2012 with the net proceeds to City in the amount of \$1 million dollars to be deposited to the Capital Reserve of the General Fund. The City has not identified any purpose for the funds.

The City has the opportunity to convey the property to a fully qualified non-profit buyer to ensure that the Elks Opera House continues to function as a facility for performing arts and related uses and purposes. Operations and maintenance will be done through endowment to the benefit of the community. We have been working for months on this deal, and adoption of the Ordinance with an emergency clause will enable close of escrow on or before December 21, 2012.

Councilman Kuknyo asked if the James Family Trust supported this. Mr. McConnell said, yes, they endorse this.

Councilman Lamerson thanked the City Manager. This is a good thing for both the City and the Trust.

Mayor Kuykendall asked about the dates scheduled for shows. Mr. McConnell said there is a provision that the buyer will honor the contractual obligations for use of the Elks Opera House. The buyer will allow non-ticket events to take place.

Councilman Kuknyo pointed out the City is rebating \$300,000 for renovations. If the sale did not go through, the City would be on the hook for these expenses. Also, the City will no longer have to worry about the operations and maintenance, including personnel costs. The \$300,000 is actually less than the cost to stabilize the outside of the theater.

Public comments:

Rob Pecharich, Attorney for the Performing Arts Center, and representing the buyer, said this is cause for celebration. The entire building, under professional management, will be available to community groups. The City won't be in the theater business any more. He thanked everyone who has been involved in this process. Mr. Pecharich pointed out as a service to the community the non-profit events will not generate money to the buyer. This is a terrific boost to downtown because the theater under this ownership will increase the business downtown.

Elizabeth Ruffner thanked the City for hanging in there all these years. The Foundation will be making a public statement. Mrs. Ruffner said the group is thinking of moving into a third season of productions.

John Olson said it has been ten years since the Foundation came into existence. It was hard work keeping the effort alive for ten years. He thanked the City for entering into a Memorandum of Understanding to work with the Foundation. Foundation members are happy with the conclusion. The Foundation is not going to go out of business and will be there to act as a watchdog and will determine if the buyer is living up to its commitments.

Council thanked the volunteers for sticking with this and hope the new owners work with the Foundation.

Ralph Weiger, member of the Elks Opera House Foundation Board, said he is very pleased to see this happen and thanked the Mayor and Council.

Maxine Delefonte is a co-founder of Elks Opera House Guild. She reported they will stay at opera house until they are no longer needed.

Quintin Lindsmith, an attorney for the Performing Arts Center's anonymous donor, said his client wants to remain anonymous. Seven years ago there was a building built about the same time as the Elks Opera House. His client wanted a permanent home for the local symphony. She provided the money to purchase the building and devoted more money to renovate and then established an endowment for the maintenance of the building. This is now a jewel in the crown of the Appalachian Valley. Money donated is subject to a gift restriction. It can never be sold and must be used for performing arts. There is sufficient funding for renovation and enhancement. There is enough money for it to last forever. To continue to thrive it will need the support of the community. There will be permanent funding to allow it to survive. The gift agreement is a strict contract which prohibits the sale of the building. The board cannot deviate from the gift agreement as it is a forcible contract. This can be called the deal of the century (centuries).

Mayor Kuykendall, on behalf of Council, thanked Mr. Lindsmith for the roll he played in this. Any transaction takes a willing buyer and a willing seller. We have consistently told the foundation that this council will ensure that the pristine condition would be maintained. We are comfortable that this is going to happen.

Warren Miller said he sees this as a closure. He was President of the Elks Opera House Foundation Board when the City purchased the Opera House. They advocated for the purchase because they felt that the City would be the best steward for the property. The City has performed very admirably. He thinks the proposed sale is appropriate and in keeping with the long term goals.

Councilman Arnold said he is appreciative of all parties. For generations to come this building will be available.

**COUNCILMAN LAMERSON MOVED TO ADOPT ORDINANCE NO. 4844-1243 WITH THE EMERGENCY CLAUSE; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

### III. ADJOURNMENT

There being no further business to be discussed, the Special Voting Meeting of December 11, 2012, adjourned at 10:35 A.M.

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MARLIN D. KUYKENDALL, Mayor

ATTEST:

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LYNN MULHALL, 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 11th day of December, 2012. I further certify the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2013.

AFFIX  
CITY SEAL

\_\_\_\_\_  
LYNN MULHALL, City Clerk