

PRESCOTT CITY COUNCIL  
SPECIAL MEETING  
TUESDAY, JANUARY 8, 2013  
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL HELD ON JANUARY 8, 2013, 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**

- ◆ **INVOCATION** by Reverend Julia McKenna Johnson, Spiritual Architect & Pastor of Each One Reach One Ministries

- ◆ **PLEDGE OF ALLEGIANCE** by Councilman Lamerson

◆ **ROLL CALL**

Present:

Absent:

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

None

◆ **ANNOUNCEMENTS**

**I. PRESENTATIONS**

A. Introduction of New Businesses

Dave Maurer, of the Chamber of Commerce, announced new Chamber members for December: PrescottDeals.net, Human Resources Professional Group, Arizona Rangers, Farm Fresh Market, Sterling Ranch, Bend Hot Yoga, and Galloping Goose/Sam Hill Cigars.

**II. PUBLIC COMMENTS**

A. John Brown - Christmas Lights

Mr. Brown was not in attendance.

B. Ralph Hess - Prohibition of assault weapons within the City limits

Mr. Hess presented Council with a petition including a proposed form of Ordinance to ban semi-automatic assault weapons within the city limits of Prescott. Referencing recent mass killings, Mr. Hess said we have to reduce the violence in our communities. One thing to be done immediately is to address the tools, which appear to be semi automatic weapons. Using overhead slides he shared statistics concerning semi-automatic weapons.

He reviewed the ordinance presented to Council and said that it meets Constitutional requirements. It is based on a City of Denver ordinance, which has been in effect for over two decades, and he suggests the Council have a workshop to discuss it.

He feels there are many in the community who would support this. He promotes consensus based democracy and hopes Council recognizes the importance of this. He would like to see Council hold a public meeting and invite stakeholders to participate and create a final ordinance that would meet Council approval.

Mayor Kuykendall reported he had asked the Interim City Attorney if the City of Prescott had the authority to regulate assault weapons. The answer, prepared by Ms. Wilcox, is no. No regulation of assault weapons is expressly preempted by state law. The conclusion is that Arizona State Legislature has taken affirmative steps to preempt the field of production, sales, transfer, carrying and use of firearms in the State of Arizona.

Mayor Kuykendall said at this moment, the Council's position is to abide by the Legal Department decision.

### III. CONSENT

ITEMS 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/Workshop of December 4, 2012; Special Voting Meeting of December 11, 2012; Special Meeting of December 18, 2012; Joint Meeting with Town of Prescott Valley of December 19, 2012; and Special Meeting of December 20, 2012.
- B. Approval of Sundog Wastewater Treatment Plant - Mechanical Bar Screen purchase in the amount of \$14,718.00.

- C. Approval of Sundog Wastewater Treatment Plant - Gravity Belt Thickener Hydraulic System purchase in the amount of \$17,750.00.
- D. Approval of Tech Logic Annual Licensing and Maintenance Renewals.
- E. Purchase of one (1) each 2011 Polaris Ranger Utility Vehicle Model RSE for \$7,500.00 plus licensing fees (sales tax included).

**COUNCILMAN ARNOLD MOVED TO APPROVE CONSENT AGENDA ITEMS 1.A. - I.E; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.**

#### **IV. REGULAR AGENDA**

- A. Purchase of one (1) ea - Toro Groundsmaster 4500-D Turf mower using National Intergovernmental Purchasing Alliance (NIPA) contract pricing in the total amount of \$55,392.82.

Joe Baynes, Parks and Recreation Director, presented and reported this was initially presented at a workshop on November 27, 2012. The new mower will result in labor savings by using one piece of equipment with one operator.

This is a smart purchase because of man hours saved and the fact that the current equipment is antiquated. There are efficiencies built into the new mower. Each year the maintenance costs increase.

Mr. McConnell said the savings associated with maintenance is \$3,000 to \$6,000 a year. This is a budgeted item.

Councilman Lamerson pointed out that the mower is still working, and questioned the high cost of a replacement mower verses the annual maintenance costs.

Councilman Arnold called attention to the man hours saved and the maintenance dollars saved. This purchase makes sense. We need to move forward.

Daniel Matson, Prescott resident asked how we are using a 1986 mower. He supports the purchase.

**COUNCILMAN ARNOLD MOVED TO APPROVE THE PURCHASE OF ONE (1) TORO GROUNDSMASTER 4500-D TURF MOWER IN THE TOTAL AMOUNT OF \$55,392.82; SECONDED BY COUNCILMAN SCAMARDO; PASSED 6-1, WITH COUNCILMAN LAMERSON VOTING NAY.**

- B. Purchase of one (1) ea. New Holland T5040 4 WD tractor and Alamo flail mower for right-of-way maintenance using Arizona State Procurement

Office pricing from Bingham Equipment Company in the amount of \$93,765.67.

Stephanie Miller, Director of Field and Facilities presented. She reported the Streets Maintenance Division is currently mowing and maintaining 71 acres. This item was presented and discussed at the November 27, 2012 workshop and Council gave direction to bring the purchase forward.

Councilman Arnold agrees this is a good purchase. Maintaining our right-of-ways is important and he supports the purchase.

Councilman Lamerson said he sees this purchase differently than the previous item. This is a public safety issue and he supports the purchase.

Councilman Kuknyo asked if this can be used during the fire season. Ms. Miller said that would be the Fire Department's decision.

**COUNCILMAN BLAIR MOVED TO APPROVE THE PURCHASE OF ONE (1) EA. NEW HOLLAND T5040 4WD TRACTOR AND ALAMO FLAIL MOWER FOR RIGHT-OF-WAY MAINTENANCE USING ARIZONA STATE PROCUREMENT OFFICE PRICING FROM BINGHAM EQUIPMENT COMPANY IN THE TOTAL AMOUNT OF \$93,765.67 KUKNYO; SECONDED BY COUNCILMAN; PASSED UNANIMOUSLY.**

- C. Adoption of Resolution 4159-1320 extending the City of Prescott Water Management Policy and adopting a Water Management Budget for Calendar Year 2013.

Leslie Graser, Water Resources Specialist, explained that adoption of the Resolution will extend the City of Prescott Water Management Policy, and set forth a Water Management Budget to make water available for allocation to new development during calendar year 2013.

Ms. Graser gave a brief history of the Management Policy. Alternative Water presently being made available for new development continues to be from the block identified by the prior (2005) Decision & Order, and not the 2009 Decision & Order identified which increased the supply by 1,471.98 acre-feet (AF). The Alternative Water category of the City's overall Water Portfolio is being audited prior to moving in the aforementioned 1,471.98 AF. At the end of the year, any unused water remains in the Portfolio.

Councilman Blair thanked Ms. Graser. Allocating 200 acre feet of water per year was a good decision and has served the City well.

Councilman Arnold asked when the audit will be completed. Ms. Graser said in about six more months.

Councilman Lamerson asked how many residential units does 200 acre feet represent? Ms. Graser said about a third. Since the year 2005, when we originally got the Alternative Water Portfolio, Prescott has done a very diligent job managing the water.

**COUNCILMAN LAMERSON MOVED TO ADOPT RESOLUTION NO. 4159-1320; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

- D. Approval of contract with G & G Specialty Contractors, Inc., for the CDBG-funded demolition and rough grading of Project Aware, 502 S. Montezuma Street, in an amount not to exceed \$37,500.00.

Kathy Dudek, Grants Administrator, reported that on April 24, 2012, the City approved Project Aware, Inc., as a recipient of CDBG funds. On November 19<sup>th</sup> the City advertised for bids for demolition and rough grading of the property. The demolition is a prerequisite to Project Aware's planned building of six apartments for low to moderate-income women and their young children. Seven bids were received. The lowest responsible bid was from G & G, out of Phoenix, Arizona. Any leftover money goes back into the pool and gets reallocated.

Ms. Dudek said this addresses the female population, families, and veterans with spouse and children.

Daniel Matson, Prescott resident and homeless advocate, said this project is very much needed in the area.

**COUNCILMAN CARLOW MOVED TO APPROVE A CONTRACT WITH G & G SPECIALTY CONTRACTORS, INC., PHOENIX, AZ; FOR THE CDBG-FUNDED PROJECT AWARE, INC., DEMOLITION AND ROUGH GRADING, 502 S. MONTEZUMA STREET, PRESCOTT, IN AN AMOUNT NOT TO EXCEED \$37,500.00; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- E. Adoption of Ordinance No. 4846-1303 for the exchange of certain real properties with Bullwhacker Associates and approving an amendment to the Conservation Easement Deed dated May 7, 2002.

Mark Nietupski, Public Works Director, presented. Bullwhacker Associates is the property owner and has made this request because the conservation easement bisects the property. To accommodate future development they have requested that the City exchange a portion of the easement for a contiguous parcel of equal size of the existing easement. Because the conservation easement will be amended and preserved by this exchange, the Army Corps of Engineers has agreed to the exchange. The Ordinance approves the deeds for the exchange of the properties. The property owner will pay the fees to have it recorded. This transaction will allow for development of this site, Mr. Nietupski said.

**COUNCILMAN ARNOLD MOVED TO ADOPT ORDINANCE NO. 4846-1303;  
SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

F. Approval of contract with Jon Paladini, City Attorney.

Mary Jacobson, Human Resources Director, presented and said she learned yesterday that Mr. Paladini will arrive on January 22<sup>nd</sup>, which will be the effective date of the contract.

Council discussed changing the dates on the contract to reflect the 22<sup>nd</sup>. The City Manager pointed out that the language on the contract states “on or before February 4, 2013”, therefore a change is not necessary.

Councilman Arnold said he is excited about having Jon coming on board, but, he is concerned with the escalating severance package. He is open to a set amount. If you are here for a year, you should be secure in your job and Council should be secure with the employment. He is bringing this up now because this is the first open meeting allowing opportunity for this discussion.

Councilman Carlow agreed and does not support a six month severance package.

Councilman Lamerson asked for a definition of a severance package. Ms. Wilcox said the contract is for three years and that is why the package is structured this way. She said this is security for Mr. Paladini, who is moving to Prescott and investing in the City.

Councilman Scamardo said he does not have issue with this. He understands Mr. Paladini’s position. We are hiring the head of a department, he pointed out.

In the industry, a six month severance is typical, Mrs. Jacobson said.

Councilman Blair said we need to vote. We gave the Human Resources Director direction to move forward. He supports this. This is not the time to split hairs.

Interim City Attorney Wilcox said this is common practice for high level professionals.

Councilman Kuknyo said this subject might be a good topic for future discussion resulting in having a standard for the future.

Councilman Blair said the Council should have discussed this earlier. We put our Human Resources Director in charge of negotiations. We should not be doing this after we negotiate terms of employment. If we don’t want the Human Resources Director to negotiate, then we need to negotiate ourselves. This is an industry standard.

Daniel Matson, Prescott resident, told Council they have negotiated and it is two weeks before he comes. It would be a slap in his face. In the future have an open meeting to discuss. At this point it would be in poor taste.

Sandra Smith, Prescott resident, said she agrees with Daniel, but also agrees with Councilman Carlow. Six months' severance is too much. Setting up a workshop to set standards is a good idea.

Holly Pena, Pauldin resident, said a six month severance package is too much. She said \$65,000 is a lot of money and maybe Council should have talked about it beforehand.

Councilman Arnold closed the discussion saying this is the first opportunity for the public to discuss this. The recommendation to have a workshop is acceptable. He is enthusiastic about having Jon here. This is a discussion point that there is not another opportunity to bring it up. The discussion had to happen here and now.

**COUNCILMAN LAMERSON MOVED TO APPROVE CONTRACT WITH JON PALADINI, CITY ATTORNEY; SECONDED BY COUNCILMAN ARNOLD; PASSED UNANIMOUSLY, 6-1 (COUNCILMAN CARLOW VOTED NAY)**

- G. Approval of advertisement of a request for proposals to contract out food and beverage services at Antelope Hills Golf Course.

Alison Helms presented. This has come before Council several times and Council asked for staff to develop an RFP. This is the next step in the process. Ms. Helms pointed out part of the advertisement is to reach out to a wide variety of providers. There will be a team to review the proposals. Ms. Zelms said this is not a bid. It is a request for proposals, which allows for some flexibility. There are other options, such as management of the golf shop and potentially maintenance of the course. Much depends on what happens with the advertisement. If all goes well the goal is to have a new operator in place by May 1<sup>st</sup>. As part of the approval process there will be a team that will review all of the proposals that come in.

Councilman Lamerson said the golf course operation is a complex (golf course, pro shop, restaurant, bar). Separating the parts from the whole is a mistake. He won't support chopping up the golf complex. He would prefer to keep the golf course complex whole. It is not a municipal responsibility to run a golf course.

Councilman Blair said he is interested in seeing the proposals for the restaurant. He feels the Centennial Center name should be spelled out, rather than referring to it as an event and banquet facility.

Councilman Scamardo said this document will allow us the flexibility to produce a plan for the food and beverage operation of the golf course, which was the direction given by Council.

Councilman Carlow said he thinks it is easier to keep it ourselves or outsource the entire operation. A fragment approach is not what he would recommend.

Councilman Arnold said the RFP is quite thorough. He remembers hearing concerns from several people that if the entire golf course is let go, and we get a vendor in there that does not meet our needs and specifications, the ramifications of that failure on that scale could be significant. Putting out the restaurant business in the RFP is the right decision. The restaurant operates at nearly a break even. It does not create revenue and it does not lose money. He looks forward to seeing what comes in.

Councilman Kuknyo said the golf course has been here longer than any of the other local golf courses who are in business now. During his candidacy he made it clear that government should not be competing with the private sector. He said he especially sees this happening with the Centennial Center. Every penny the restaurant makes is a penny less than someone else makes. We should not be competing with restaurants and banquet facilities.

Mayor Kuykendall said we will all learn a lot from the operators making proposals. A good food and bar owner will enhance the golf course. We hope to see a renewed vigor in the golf course.

Councilman Lamerson said he agrees with Councilman Kuknyo. When we are in the business of selling golf hats we are in competition with local merchants. We should not be involved in this.

Ms. Helms said the contract is for three years. The team will look closely at this when reviewing the RFP and will have opportunities to provide additional information to Council after the RFP.

Daniel Matson, Prescott resident, said this is a good learning opportunity and a win win situation. The price is insignificant compared to the knowledge we gain from this.

**COUNCILMAN SCAMARDO MOVED TO APPROVE ADVERTISEMENT OF A REQUEST FOR PROPOSALS FOR ANTELOPE HILLS GOLF /CENTENNIAL CENTER FOOD AND BEVERAGE OPERATIONS AND ASSOCIATED FACILITY LEASE; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

- H. Approval of Amendment One to City Contract No. 2012-063 with Mountain Bike America, LLC, dba Epic Rides, LLC, for the 2013 and 2014 Whiskey Off-Road Mountain Bike Events.

Alison Helms, Deputy City Manager, presented and said the amendment is to the City services portion of the contract. There is a \$10,000 cap for City services provided, including things like Police, traffic control, and other safety related thing that are necessary. As the event grows, the needs of the community change. This is just another step in the ongoing relationship with the Whiskey Off-Road. The City is

currently working with them and ASU School of Business to complete an economic impact study that will occur during the 2013 event.

Councilman Blair said there is a cost benefit analysis attached to this. We don't know, based on the number of people signing up, exactly what we will need to do, as far as the City's share. This is part of being in a relationship with someone to promote a signature event.

Councilman Kuknyo said this is a two year contract and we can renegotiate in two years if we need to make changes. Ms. Zelms said we have a debriefing after the event and will know what we need to change. This is an ongoing process.

**COUNCILMAN ARNOLD MOVED TO APPROVE AMENDMENT ONE TO CITY CONTRACT NO. 2012-063; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.**

I. Approval of the 2013 State Legislative Agenda.

Alison Helms, Deputy City Manager, introduced the item. As a result of the conversation and direction Council gave at the meeting on December 18<sup>th</sup> this is being brought forward for approval, and includes more emphasis on the impact of unfunded mandates.

As part of the packet, included is City and employee retirement contribution update. There is a significant increase in our pension obligations and the City has no control over these pension obligations. The rate is set by the state legislature by giving authority to the various pension plans. The total new expenditure, for all employee groups, to the City is \$540,000. This is a new expenditure we have no control over for next year. This is an ongoing problem for the City. A letter has been drafted and signed by all of Council, and it will accompany the Legislative Agenda if it is approved tonight.

Councilman Arnold thanked Alison for making the amendments to the Legislative Agenda. Regarding the State Retirement System, we owe it to our employees to lobby as much as possible so that the state get its house in order. As with the Impact Bill, we have a broad spectrum of areas we need to pay close attention to. Councilman Arnold said he looks forward to any opportunity to drive to Phoenix and help where he can.

Councilman Blair said he is in agreement with Councilman Arnold. This is the second year in a row we have had these large increases. There are some cities that cannot fund these retirements. At some point in time the state legislators have to make changes.

Councilman Scamardo asked why there is such a dramatic jump for Fire. Ms. Zelms explained that the City rate for Fire and Police is due to the actuarial, which takes into account the number of retirements, the age of the employee population, and the typical

retirement collected. It is done by entity in the retirement system. The history of our departments and the employee base we have is driving the change in the City of Prescott. It is based on our actual experience, Ms. Zelms said.

Councilman Lamerson said they are dealing with unions. It is important to remember this is just a little piece of the world. We need to reach out to our legislators. Some amenities may come to a stop because the state forces us to spend money elsewhere. When we go into the budget we are going to have to be leaner.

Councilman Blair said the increase is on the bottom line of the General Fund. Mr. McConnell said this translates to over \$400,000 spent last year and \$500,000 for this year and we have not been able to offer a cost of living increase or a merit increase to our employees. We do not have \$1 million to compensate employees because of this number. We are going to have to cut services somewhere. These cuts harm the community.

Councilman Kuknyo said several local issues have become state laws. He will be happy to weigh in and drive to Phoenix and make phone calls.

**COUNCILMAN ARNOLD MOVED TO APPROVE THE 2013 STATE LEGISLATIVE AGENDA; SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.**

## **V. REPORTS**

A. Board/Commission liaison reports

Reports will be given at the January 22, 2012, meeting.

## **III. ADJOURNMENT**

There being no further business to be discussed, the Special Meeting of January 8, 2013, adjourned at 5:09 p.m.

\_\_\_\_\_  
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 Special Meeting of the City Council of the City of Prescott, Arizona held on the 8th day of January, 2013. 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