

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, FEBRUARY 26, 2013
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL HELD ON FEBRUARY 26, 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 Pastor Jane Cheek, First Congregational Church of Prescott

◆ **PLEDGE OF ALLEGIANCE** by Councilman Carlow

◆ **ROLL CALL:**

Present:

Absent:

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

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Mayor Kuykendall announced the City is honored this week to have the 2013 Arizona Detention Association Convention at the Prescott Resort. He attended the event last night and reported there are 350 detention participants from around the State staying in the Prescott area.

I. **CONSENT AGENDA**

CONSENT ITEMS I.A. – I.F. 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 of February 5, 2013; Workshop of February 5, 2013; Special Meeting of February 12, 2013; and Voting Meeting of February 12, 2013.
- B. Purchase of one (1) ea. Allied Model 2112 pedestal boom system base assembly with bolt kit for stationary boom crane from Tucson Tractor Sales in the total amount of \$11,729.58, for the Solid Waste Transfer Station.
- C. Authorization of payment in the amount of \$12,300.00 to CRW Systems, Inc., for TRAKIT Annual Technical Support and Software Maintenance Renewal.
- D. Adoption of ORDINANCE NO. 4849-1306, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF A SEWER EASEMENT FROM THE CONAN L. & CRYSTAL K. QUICK FAMILY TRUST, IN THE VICINITY OF LOT 450 YAVAPAI HILLS UNIT II, AUTHORIZING THE MAYOR AND STAFF TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE SAID PURCHASE.
- E. Adoption of ORDINANCE NO. 4852-1309, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, GRANTING A NONEXCLUSIVE ACCESS EASEMENT FOR THE BENEFIT OF LOTS 105-04-011B and 105-04-011C.
- F. Adoption of Resolution No. 4162-1324 regarding contracts with City Council members or employees.

Councilman Blair asked the City Attorney how an ordinance can be on the Consent Agenda. Mr. Paladini explained that the two ordinances on the Consent Agenda did not change City Code. Ordinances take 30-days to take effect, unless there is an emergency clause. At the Mayor's discretion, Councilmember's and members of the public may ask that an item be removed from the Consent Agenda to allow for discussion and comment separately. He said that it would ultimately be up to the Mayor to pull an item off the Consent Agenda.

At the request of Councilman Arnold the City Manager addressed item F. Arizona State Law enables contracts between the City and officers and employees of the City if a resolution has been adopted which sets forth the limitations. This resolution is passed annually and provides for informal contracts not in excess of \$300 per transaction or \$1,000 in any one year.

COUNCILMAN ARNOLD MOVED TO APPROVE CONSENT AGENDA ITEMS I.A – I.F; SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.

II. REGULAR AGENDA

Mayor Kuykendall announced that item II.J. will be disused as the first item because we have guests in attendance. There were no objections.

A. Appointment of members to the Prescott Preservation Commission.

City Clerk Mulhall advised Council that there are currently four vacancies on the Prescott Preservation Commission. The vacancies were appropriately advertised and the Council Appointment Committee met and reviewed the applications. The Council Appointment Committee is recommending the appointment and reappointments.

Cat Moody, Staff Liaison for the Prescott Preservation Committee, addressed Mayor and Council and said two members Mike Todd and Robert Burford, were not able to attend this afternoon. Trinidee Shelton and Russell Buchanan introduced themselves.

COUNCILMAN LAMERSON MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE RECOMMENDATION TO APPOINT TRINIDEE SHELTON, AND TO REAPPOINT ROBERT BURFORD, MICHAEL TODD, AND RUSSELL BUCHANAN WITH TERMS TO EXPIRE MARCH 2016 AND FOR MIKE TODD TO CONTINUE AS THE CHAIRMAN OF THE COMMISSION; SECONDED BY COUNCILMAN ARNOLD; PASSED UNANIMOUSLY.

B. Appointment of members to the Advisory and Appeals Board.

City Clerk Mulhall advised Council that there are currently four vacancies on the Advisory and Appeals Board. The vacancies were appropriately advertised and the Council Appointment Committee met and reviewed the applications. The Council Appointment Committee is recommending the appointment of Mr. Steve Childers. Ms. Mulhall said she would continue to accept applications for the remaining three vacant seats.

Mr. Childers introduced himself and said he was looking forward to working with this board.

COUNCILMAN LAMERSON MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE RECOMMENDATION TO APPOINT STEVE CHILDERS TO THE ADVISORY AND APPEALS BOARD WITH A TERM TO EXPIRE MARCH 2015; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

C. Public Hearing and consideration of a liquor license application from William Kenneth Smoot, applicant for Prescott Winery for a Series 13 Domestic Farm Winery, license, located at 216 North Alarcon Street.

Lynn Mulhall, City Clerk, presented. The liquor license application from William Smoot, for Prescott Winery, was received from the state and posted on site for the required 21

days. The application was routed through Community Development and the Police Department. No protests have been received.

Mr. Smoot addressed Council and said they will produce wine at the location and have a tasting room. They will cater to the tourists industry for the first year, opening Friday, Saturday or Sunday. He compares it to a brewing industry and says that it will be a five year project. He may look at some kind of distribution in the future.

**COUNCILMAN LAMERSON MOVED TO CLOSE THE PUBLIC HEARING;
SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

**COUNCILMAN ARNOLD MOVED TO APPROVE LIQUOR LICENSE APPLICATION
NO.13133034, FOR A SERIES 13, DOMESTIC FARM WINERY LICENSE, FOR
PRESCOTT WINERY LOCATED 216 NORTH ALARCON STREET; SECONDED BY
COUNCILMAN LAMERSON PASSED UNANIMOUSLY.**

- D. Approval of a grant application to the Governor's Office of Highway Safety seeking funding in the total amount of \$27,000.00 for a police motorcycle.

Interim Police Chief Rinehart presented. He reported that he would like to put this bike into their fleet and use another as the spare. Currently the department has six bikes with one spare. They use two other spare motorcycles for training. He said the motorcycle would come fully equipped, but not have radar.

Councilman Lamerson said he supports the application. The money will be spent somewhere in the State, so it might as well be Prescott.

**COUNCILMAN ARNOLD MOVED TO APPROVE SUBMISSION OF A GRANT
APPLICATION TO THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR
FUNDING IN THE AMOUNT OF \$27,000.00; SECONDED BY COUNCILMAN BLAIR;
PASSED UNANIMOUSLY.**

- E. Approval of Change Orders 7, 9, and 10 to the contract with A. Miner Contracting, Inc., for construction of the Runway 21L-3R Runway Safety Area Improvement Project at Prescott Municipal Airport.

Councilman Arnold declared a potential conflict of interest and left the dais at 3:30 P.M.

Tom Guice, Community Development Director presented. Change Order 7 is for placement of controlled low strength material (CLSM) in locations where there are existing storm drains under taxiway delta. The net increase to the contract is \$12,231.50.

Change Order 8 can be approved administratively with a total cost of \$2,405.79. It is for the placement of two access gates for the use by the Federal Aviation Administration.

Change Order 9 has two parts required for the modification for the Airport Lighting Control and Monitoring System and additional placement of the CLSM in the storm drains where it crossed under runway 12-30. The project involves removing 401 feet off of the 3R end of the runway and replacing it on the 21L end. The total cost associated is \$18,889.57. The second part of the change order involves the CLSM and night work on the runway. The total cost for the two items is \$43,311.42.

Change Order 10 is work required for abandonment of a waterline crossing 21L-3R runway. The abandonment reduces the need for waterline maintenance and access. The need for a backflow preventer was not anticipated with this project, which will prevent contamination of the City's potable water. The cost associated with that is \$36,045.75.

Mr. Guice said the City would be reimbursed for these change orders. Representatives from Dibble Engineering are present to answer questions.

Councilman Carlow asked what the process is for the change. Mr. Guice said the technical changes override the contract.

Ken Snyder, representing Dibble Engineering, addressed Council. He reported on the technical specifications and said they take precedence over the plans. He noted that the contractor was told to use a certain material in the plans. However, the plans also said that CLSM should be used in certain locations. The intent of the engineer was that CLSM be used under the taxiways.

Councilman Carlow said that he thought the technical specifications would be part of the approved plans. Mr. McConnell said the contract identifies what the precedence of the documents comprising the contract is. It is not unusual in a project this size to have internal conflicts.

Mr. Guice said completion should be in March. It is possible that another change order may come before Council.

COUNCILMAN KUKNYO MOVED TO APPROVE CHANGE ORDER 7 IN THE AMOUNT OF \$12,231.50, CHANGE ORDER 9 IN THE AMOUNT OF \$43,311.42, AND CHANGE ORDER 10 IN THE AMOUNT OF \$36,045.75 TO THE CONSTRUCTION CONTRACT WITH A. MINER CONTRACTING, INC., FOR THE RUNWAY 21L-3R RUNWAY SAFETY IMPROVEMENT PROJECT; SECONDED BY COUNCILMAN BLAIR; PASSED 6-0.

Councilman Arnold returned to the dais at 3:41 P.M.

- F. Approval of a professional services agreement with Shephard-Wesnitzer, Inc., to provide engineering services for the FY 2014 Pavement Reconstruction Program in an amount not to exceed \$266,540.00.

Mark Nietupski, Public Works Director, presented. This contract will provide for engineering and post design services for the FY 2013 Pavement Reconstruction Program. The following street segments have been designated for pavement reconstruction: Willow Lake Frontage Road (Maranatha Drive to Willow Drive), Willow Lake Road (Meadow Lane to SR 89), College Heights Road (Willow Creek Road to Georgetown Drive), Haining Street (Iron Springs Road to Forbis Street), Sequoia Drive (Delano Avenue to Tamarack Lane), Delano Avenue (Sequoia Drive to Chestnut Drive) and Miller Valley Road (Fair Street to Whipple Street). The design contract should be completed in approximately six months and will go to bid shortly thereafter.

Councilman Kuknyo said he frequently gets asked why we hire outside engineers when we have engineers on staff. Mr. Nietupski said we have a very aggressive program and the City would not be able to keep up with the amount of work we have. The engineering staff manages the engineering and does the plan reviews.

Councilman Blair asked who determines if they take two or three inches of pavement from the top prior to reconstruction. Mr. Nietupski said they do a geotechnical investigation to make the determination.

COUNCILMAN ARNOLD MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH SHEPHARD-WESNITZER, INC., TO PROVIDE ENGINEERING SERVICES FOR THE FY 2014 PAVEMENT RECONSTRUCTION PROGRAM IN AN AMOUNT NOT TO EXCEED \$266,540.00; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

- G. Approval to perform night work along segments of Sheldon Street, Marina Street, and Whipple Street associated with the 2013 Pavement Rehabilitation Project.

Mark Nietupski, Public Works Director, presented. He reported that the volume of traffic on Sheldon and Whipple is approaching 30,000 vehicles per day, mostly occurring between 7:00 a.m. and 7:00 p.m.

Councilman Arnold asked that businesses close to this project be notified of the work to be done.

COUNCILMAN LAMERSON MOVED TO APPROVE NIGHT WORK ON SEGMENTS OF SHELDON STREET, MARINA STREET, AND WHIPPLE STREET ASSOCIATED WITH THE 2013 PAVEMENT REHABILITATION PROJECT; SECONDED BY COUNCILMAN KUKNYO; PASSED UNANIMOUSLY.

- H. Approval to purchase one (1) ea. 2013 Ford F250 4x4 crew cab pickup truck in the total amount of \$28,987.90 and one (1) ea. six cubic yard Par-Kan Easy Dump collection container in the total amount of \$14,429.19.

Councilman Kuknyo declared a conflict of interest for items H and I and left the dais at 3:52 P.M.

Stephanie Miller, Director of Field and Facilities Services, presented. She described the truck and how it will allow for safer servicing. In the event this truck goes down, the collection container can be refitted to another truck. She is requesting the crew cab for various uses throughout the year when crews need to transport items to events or carry extra supplies.

COUNCILMAN ARNOLD MOVED TO APPROVE THE PURCHASE ONE (1) EA. 2013 FORD F250 4X4 CREW CAB PICKUP TRUCK IN THE TOTAL AMOUNT OF \$28,987.90 AND ONE (1) EA. SIX CUBIC YARD PAR-KAN EASY DUMP COLLECTION CONTAINER IN THE TOTAL AMOUNT OF \$14,429.19; SECONDED BY COUNCILMAN CARLOW; PASSED 6-0.

I. Solid waste management organization, responsibilities, and requirements

- (1) Adoption of Resolution No. 4162-1322, A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "CHAPTER 2-13, FIELD AND FACILITIES SERVICES DEPARTMENT".

The City Clerk read the caption of the resolution and Stephanie Miller, Director of Field and Facilities Services, presented. The first part of this item is to declare a public record. The second part adds a new Chapter 2-13 to the City Code renaming the department, modifying licensed hauler requirements, adding licensing requirements and clarifying and ensuring consistency within the provisions. The 3rd part sets new municipal solid waste service fees.

Ms. Miller provided some history related to solid waste and then reviewed the revisions being recommended. One revision deletes the requirement for commercial haulers. The revised chapter will add a \$500 application fee that the commercial haulers will have to pay to register with the City. They will also be required to pay \$1,000 per truck license fee for any truck that is collecting within the City limits.

Addition changes to Chapter 2-13 include:

- Captures all fees in one fee table in for clarity in a resolution
- Strengthening protections and prohibitions regarding litter, scavenging, and container placement
- Establishing a \$20.00 fine per incident for the hauling of uncovered loads, to reduce litter along City streets and defray the costs of cleanup
- Consistency of the section regarding disposal of prescription drugs and medicines for compliance with federal regulations
- Eliminating a 15% fee reduction for non-profit entities which indirectly required that the fees charged to other customers for the same service be higher

Ms. Miller noted that if a company came in and wanted to continue providing services in the City limits, they will pay the \$500.00 application fee, a prorated license fee for the rest of the fiscal year. Beginning July 1, 2013, they will go through the process again. The Solid Waste division will work with the four current contractors who are registered and send them copies of the Code, the application fees and let them know that the City will refund any fees they have paid to date, upon written request from them.

Councilman Arnold said if we go through a licensing process we should not have a requirement to see their books. He does not think that information is necessary. Ms. Miller said the financial statement might have been overlooked in the revisions. Staff will remove that language. Councilman Arnold reads Item G to mean random inspections will be allowed. Ms. Miller said that is how it reads, but it would only be in the event that it was necessary to do an inspection. Councilman Arnold asked the City Attorney if this is possible. Mr. Paladini said he did not think this allowed for a forced stop detention. It would more likely allow someone from Field and Facilities Services or Code Enforcement to approach an already stopped vehicle. Best practice would be to wait until the vehicle is stopped. He said it did not allow for a stop, only an inspection.

Councilman Arnold noted that on page 27, there is no fee schedule associated with the container impound. Ms. Miller said it would be related to the actual cost incurred. Councilman Arnold would like to see a fee schedule associate with it. He asked if the requirements for vehicle labeling would be the same requirement for City vehicles. Ms. Miller said yes.

Councilman Blair asked what would necessitate the City to impound a container. Ms. Miller said it relates to a public safety health issue. They would deal with the owner of the container first.

Mr. McConnell said the fee schedule would come back in a resolution.

Councilman Lamerson asked if the garbage rates will change in the City. Ms. Miller said that at the present time, the rates will not change. Councilman Blair asked if the application fee is a onetime fee. Ms. Miller said it is an annual application fee. It helps to defray costs for monitoring the program. This will ensure that the City always has current information. Ms. Miller said it is an industry standard in the State of Arizona.

Councilman Scamardo said we have potentially \$10,000 in revenue coming from this program.

Mayor Kuykendall asked what determines if a dumpster in an alley should be in an enclosure. Many of our enclosures have gates and asked if this was effective. Some of the alleys in Prescott are really getting stopped up with trash containers. Ms. Miller said we need to manage our rights-of-way. Some are very narrow. We are going to look at this going forward. We could do a better job city-wide to educate the owners.

Mayor Kuykendall noted that if the container is sitting on a sidewalk when it is picked up, it would probably be returned to the sidewalk, which is not where he would like to have the trash container. Ms. Miller said some areas of the City are limited to where residents can put their containers. They are going to do an educational campaign so people know where their containers should be placed and when they should be removed.

Sandra Smith, Prescott resident, reported she has had days when she has not been able to move down sidewalks because of the trash containers. Ms. Miller said she would help. Councilman Blair said the education has worked in some neighborhoods but not all. We need to review our process city-wide. This impacts newspaper and mail delivery.

Bill Taylor, Best Pick Disposal, has a few accounts in the City. He asked if he will have to pay for a substitute truck if one of his regular trucks broke down. He also asked why the City was going to return the fees they had paid

Ms. Miller said if a collection vehicle has to come in as a substitute, they will pro-rate the fee for the time they operate in the City limits.

COUNCILMAN ARNOLD MOVED, WITH THE INCLUSION OF ANY AREA WHERE IT INDICATES THE FINANCIAL STATEMENT REQUIREMENT BEING REMOVED, TO ADOPT RESOLUTION NO. 4162-1322; SECONDED BY COUNCILMAN BLAIR; PASSED 6-0.

The City Attorney, for the record, said the reference in the motion was to delete paragraph E, of Section 2-13-25, License Application, on page 25, and any other similar requirements for licensing purposes.

- (2) Adoption of Ordinance No. 4848-1305, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING THE PRESCOTT CITY CODE AMENDING CHAPTER 2-13 BY ADOPTING THE PUBLIC RECORD DOCUMENT ENTITLED "CHAPTER 2-13, FIELD AND FACILITIES SERVICES" AND DECLARING AN EMERGENCY; and

COUNCILMAN ARNOLD MOVED TO ADOPT ORDINANCE NO. 4848-1305, WITH THE EMERGENCY CLAUSE; SECONDED BY COUNCILMAN BLAIR; PASSED 6-0.

- (3) Adoption of Resolution No. 4163-1324, A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ESTABLISHING THE AMOUNTS FOR FEES FOR SERVICES AND ACTIVITIES PROVIDED UNDER PRESCOTT CITY CODE, CHAPTER 2-13, FIELD AND FACILITIES SERVICES

DEPARTMENT, REFUNDING CERTAIN FEES, AND PRORATING
CERTAIN FEES.

**COUNCILMAN ARNOLD MOVED TO ADOPT RESOLUTION NO. 4163-1324;
SECONDED BY COUNCILMAN BLAIR; PASSED 6-0.**

Councilman Kuknyo returned to the dais at 4:42 P.M.

- J. Adoption of Resolution No. 4164-1325 declaring Zeitz, Germany, a Sister City.

(This item was moved to the beginning of the agenda). Councilman Kuknyo introduced the item, which authorizes entering into a “People-to-People Program” Sister City relationship with Zeitz, Germany. Adopting this resolution is the final step in the process as set forth by Sister Cities International. He noted that \$4,500.00 is budgeted for the Sister City Program and they have spent about \$50.00. He introduced individuals who have been involved with the project. He said that people who were involved with the project and people involved with tourism in the community were footing the bill.

Bob Greninger, President, Arizona Sister Cities, was in the audience to answer any questions. The City of Prescott has three other Sister City relationships. He said it was the 41st year that Prescott has been involved with the Sister City Program. This is a “People to People” relationship and does not rely on government finances. He spoke about the Student Exchange Program and the visitors we can expect from Germany this year. Margo Christensen took on the responsibility of chairing the committee for Zeitz and has done a remarkable job.

**COUNCILMAN KUKNYO MOVED TO ADOPT RESOLUTION NO. 4164-1325;
SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.**

- K. Approval of Supplemental Agreement No. 2013-141-A1 with the Elks’ Theatre and Performing Arts Center, Inc. (Elks’ Center), re the booking and management of certain performances.

Alison Zelms, Deputy City Manager, presented. The City is currently providing some operation services for contracts entered into prior to the sale of the Elks’. This is a request from the new owners for the City to operate a few additional contracts that may come in for performances that would occur between now and June 30, 2013. The new owners are currently working on their business plan. There are two existing performances in August and October, which the new owners will take over.

**COUNCILMAN SCAMARDO MOVED TO APPROVE SUPPLEMENTAL AGREEMENT
NO. 2013-141-A1 WITH THE ELKS’ THEATRE AND PERFORMING ARTS CENTER;
SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- L. Legislative Update

Mel Preston, Communications and Public Affairs Manager, gave an update.

Councilman Kuknyo would like Ms. Preston to provide a report if we are or are not getting the support from our delegation on the various issues.

III. ADJOURNMENT

There being no further business to be discussed, the Regular Voting Meeting of February 26, 2013, adjourned at 4:57 P.M.

ATTEST:

MARLIN D. KUYKENDALL, Mayor

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 26th day of February, 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