

RESCOTT CITY COUNCIL  
REGULAR VOTING MEETING  
TUESDAY, APRIL 9, 2013  
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL HELD ON APRIL 9, 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, Pastor, Each One Reach One

◆ **PLEDGE OF ALLEGIANCE** by Councilman Blair

◆ **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**

No summary given.

◆ **PRESENTATION**

A. Robert Luzius – Invitation to U.S.G.S. Rollout of NARGFM

Mr. Luzius invited Mayor and Council to the rollout of Northern Arizona Regional Groundwater Flow Model, on April 11, 2013, between 4:00 P.M. and 6:00 P.M. He said the event will be geared towards the public and all elected officials are urged to attend. Over \$4 million of taxpayers' money has been spent on what to do with the Verde River. He said the event is by reservation only.

**I. CONSENT AGENDA**

**CONSENT ITEMS I.A. – I.B. 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 Caucus of March 19, 2013; Special Meeting of March 26, 2013; and Regular Meeting of March 26, 2013.
- B. Approval of a Professional Services Agreement with Otwell Associates Architects for architectural and other related services for the Fire Administration Building remodeling project in an amount not to exceed \$19,000.00 (City Contract No. 2013-159).

Mr. McConnell said the City was approached by the Pulmonary Foundation, who own 215 North McCormick Street. They are interested in conveying the facility to the City to be used for the Fire Department. He said the City is the beneficiary of the building and the contract will do the work necessary to prepare the building for occupancy. This will consolidate the Fire Department in downtown Prescott and provide a Fire Administration Building for the City.

**COUNCILMAN LAMERSON MOVED TO APPROVE CONSENT AGENDA ITEM I.A – I.B.; SECONDED BY COUNCILMAN ARNOLD; PASSED UNANIMOUSLY.**

**II. REGULAR AGENDA**

- A. Appointment of members to the Fire Board of Appeals.

**COUNCILMAN LAMERSON MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE RECOMMENDATION TO RE-APPOINT JUDY HALEY AS MEMBER AND CHAIR OF THE FIRE BOARD OF APPEALS WITH A TERM TO EXPIRE MARCH 2016, AND APPOINT MICHAEL BROGGIE WITH A TERM TO EXPIRE MARCH 2014; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

City Clerk Mulhall administered the Oath to the new appointees.

- B. Public hearing for proposed adoption of Resolution No 4167-1328 calling the Alternative Expenditure Limit – Home Rule Election at the August 27, 2013, City primary election.

Mark Woodfill, Finance Director, presented and opened the Public Hearing at 3:15 P.M. Mr. Woodfill explained the process and reported this has been approved six times since 1989. The City is required to bring this to the voters every four years. He said this will return the control of the expenditures locally as opposed to the statewide formula. He

noted that 58 communities in the state have adopted Home Rule. He said this is the first of the two public hearings; the second will be April 23, 2013. The pamphlet will go to the Auditor General for approval and then to the voters.

Councilman Arnold said the impact between Home Rule and Expenditure Years 2014 - 2015 is estimated at \$18 million. Mr. Woodfill said if it did not pass it would require a loss of service levels and discontinuing capital replacement projects. He said the total General Fund is \$29 million dollars.

Mr. Woodfill said the Expenditure Limit has some exemptions. He said that even if the City has the cash, they may have to issue debt because they do not have the authority to spend it.

Daniel Mattson, Prescott resident, said that it will be real chaos if the resolution does not pass. He encouraged the citizens of Prescott to vote in favor of Home Rule.

There being no further public comments, the Public Hearing was closed at 3:21 P.M.

**COUNCILMAN KUKNYO MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN ARNOLD; PASSED UNANIMOUSLY.**

- C. Approval of Arizona Municipal Risk Retention Pool (“AMRRP”) Third Amended and Restated Membership Agreement (City Contract No. 2013-158).

Jon Paladini, City Attorney, said staff is recommending entering into the AMRRP by way of this agreement. It is an intergovernmental agreement with 75 municipalities in the state, to become a member of the risk pool. He noted that the City has been self insured for liability since 1986 and self insured for workers compensation since 1996. He said the City currently pays for a third party administrator to adjust claims, brokerage services and excess coverage. The City may also have to retain outside counsel if there is a claim against the City.

Mr. Paladini said the legal department compared the City’s self insured costs to those of the Risk Pool. In addition to including the items that the City currently pays extra for, the Risk Pool pays for preventative measures, including training, risk management, loss control and safety training.

He said that staff holds the position that the Pool provides a more manageable insurance program for the City at a savings of roughly \$220,000.00 to \$230,000.00 per year. If the Council approves the contract, the insurance will take effect June 1, 2013.

Councilman Arnold said it is important to reiterate a savings of approximately \$225,000.00 and the City will no longer need to fund its workers compensation reserve. He said that he would like to see an analysis of the past three years of self insurance versus what the actual cost of the Pool is, after the first year of coverage.

**COUNCILMAN KUKNYO MOVED TO APPROVE THE RESTATED MEMBERSHIP AGREEMENT WITH AMRRP TO PROVIDE LIABILITY AND WORKERS' COMPENSATION INSURANCE COVERAGE (CITY CONTRACT NO. 2013-158); SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.**

- D. Approval of Preliminary Plat PP12-001 and associated Water Service Agreement WSA13-001 (City Contract No. 2013-150) for the Madison Park Cottages, a six lot single-family Planned Area Development subdivision. Zoning: Multifamily, Medium Density; Owner: Habitat for Humanity.

George Worley, Planning Manager, presented. Mr. Worley reviewed the presentation given at the April 26, 2013, Council meeting. He said that as a result of questions addressed at the meeting on the 26<sup>th</sup>, Police and Fire representatives are now available to answer questions.

Councilman Arnold said a few Councilmen toured the site to look at Meany Street and Short Street. He said the streets are deficient and there may be a solution to address the road problem, which works well for the community as well as for the developer. He said he would like to see a stipulation that, prior to the approval of a final plat, an infrastructure and contribution agreement is reached between the City and the developer, to address road improvements to Meany and Short Streets and that staff take an approach based on trips generated. He noted that there are Community Development Block Grant (CDBG) funds that are available to Habitat to offset those costs. He does not support the City bearing the entire cost to improve a street that is structurally deficient.

Don Devendorf, Prescott Fire Marshall, said Meany Street is nothing more than a driveway. Based on the fact that the street is 250 feet long, it will be servicing multiple properties and no other vehicle could pass one of the City's emergency vehicles, if they were on that street. He said that staff recommends there be no parking on either side of the street and that it have a hard surface. He said a good compromise would be a 20 foot wide fire lane.

Councilman Arnold said there is an overriding health and safety issue in the neighborhood and adding additional homes would exacerbate it. He said using CDBG funds for the project would make it fair to all.

Councilman Blair said he supports the project 100 percent and agrees with the Fire Marshall that the City should have a 20 foot minimum, hard surface road. He noted that the City's responsibility is to provide water to the units.

Councilman Lamerson asked to hear from the Police Chief. Chief Monahan said their department's position is to support the assessment from the Fire Marshall. The ability to get people in and out would work with the recommendations for the 20 foot fire lane.

Councilman Lamerson asked if the Fire Department agreed with the recommendations from the Planning and Zoning Department. Fire Marshall Devendorf said yes.

Councilman Kuknyo suggested dead end markers for the end of the road. Councilman Carlow noted that there is about \$30,000.00 in CDBG money that could go towards this \$79,000.00 project.

Scott Tkach, City Engineer, said they did an estimate on improving the streets. The total cost, including engineering, is \$132,000.00, based on a 24 foot wide section. He said if the street is built 20 feet wide, the price would be about \$110,000.00. Mr. Devendorf said a standard street is 28 feet wide, a 24 foot street allows for parking on one side. He said the Fire Department would have everything they needed on a 20 foot street, if both sides were posted for no parking. He said the additional width to allow parking on one side could cause problems, depending on how people parked their vehicles.

Councilman Scamardo said that he is in favor of the project, as a Councilman. As a retired builder/developer he questions looking at Habitat differently than other developers. These recommendations are adding about \$20,000 per unit. He said he would approve a 24 foot street. Councilman Arnold said the City requires a developer to pay a portion of infrastructure. He said any steps taken today may be looked at in the future by other developers and said it is appropriate for a stipulation to be added.

Councilman Kuknyo said he thinks there may be problems with no parking on both sides. If the City puts no parking on both sides of the street, they are creating an enforcement issue for Police. He said the City has money for a project like this in the Annual Pavement Reconstruction Program.

Mayor Kuykendall asked if there is a fire hydrant in that area. Mr. Devendorf said yes, there are two. He also asked for a hydrant to be installed at the corner of Meany and Short Streets. The Mayor said the City should talk to the developer about that installation. Mr. Devendorf said there is adequate water supply in the area without the new development.

Miriam Haubrich, representing Habitat, said she has not discussed streets with the current home owners. She cannot guarantee that her families can pay for parts of this road.

Mayor Kuykendall said the Council is interested in the project and wanted to know what the City's exposure was in the project.

Councilman Arnold said staff will have to figure out the proportionate share for each property. He said the City is coming in to do a street improvement project and they will ask the developer to participate. He said that he would like to see the Preliminary Plat be approved today with the stipulation.

Daniel Mattson, Prescott resident, said he went to the site and the road is substandard. He said the City should take on the lion's share of this project, since it needs to be done.

John Hensley, who owns the property across the street from the proposed project, said anything less than full build out of the street is going to be inadequate. He noted that cars will be parked on both sides of the street, no matter what width the street is. He said six houses are too many and the project would adversely affect the entire neighborhood; noting that low income houses are already available and interest rates are low. He said he would like to see a full street with ample parking on both sides. He asked that the Council decline to approve the item.

Bob Luzius, Prescott resident, said he thinks this is a very nice project. The street should be a standard street of 28 feet; anything less will be trouble.

**COUNCILMAN ARNOLD MOVED TO APPROVE PRELIMINARY PLAT PP12-001 AND WSA13-001 (CITY CONTRACT NO. 2013-150) INCLUSIVE OF THE PLANNING & ZONING COMMISSION RECOMMENDATIONS AND STIPULATING THAT A ROAD IMPROVEMENT AGREEMENT AND PROPORTIONATE SHARE CONTRIBUTION MUST BE REACHED BETWEEN THE CITY OF PRESCOTT AND HABITAT FOR THE CONSTRUCTION OF A 24 FOOT WIDE ASPHALT ROAD AS DESCRIBED IN THE ENGINEERING REPORT ATTACHMENT 9; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

E. ORDINANCE 4855-1312, AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING PRESCOTT CITY CODE TITLE 5, CHAPTER 5-10 REGARDING AGGRESSIVE SOLICITATION AND DELETING IN ITS ENTIRETY TITLE 5, CHAPTER 5-11 REGARDING SOLICITATIONS PROHIBITED IN CERTAIN AREAS.

City Attorney Paladini reviewed the changes to the Code. He said the legal department recommends that Title 5, Chapter 5-11 be deleted from the City Code that prohibits solicitation in the downtown Prescott area. He said it is likely unenforceable as a matter of law under the First Amendment and secondly; it is difficult for the police department to enforce that type of blanket prohibition.

Chief Monahan said the ordinance gives the police department a significant tool to address aggressive issues on panhandling in the downtown area. He said the police department is prepared to approach this with a balance.

Councilman Arnold said he was glad to see that changes were being made and he felt the ordinance would be easier to enforce.

Councilman Kuknyo asked what if a dog threatens someone. Mr. Paladini said it could be called an assault; it is the same as using a knife. Councilman Lamerson said the panhandlers are not just the homeless.

Daniel Mattson, Prescott resident, said this is a good opportunity to clean up a number of problems. He has talked to people who make good money doing this noting that a guy he spoke to made \$100 in an hour.

Mr. Paladini said the proposed language does not define a class of people, only behavior. The solicitation of a thing of value generally means money or food, not necessarily soliciting someone's opinion.

Ralph Hess, Prescott resident, commented on the constitutional components of the ordinance mentioned by a couple of Councilmen and asked about Subsection C. He asked what the government interest is concerning not letting people panhandle within 15 feet of a business unless they had owners consent.

Mr. Paladini said the language is currently in the Code. The Council had a discussion concerning solicitation on private and public property.

**COUNCILMAN ARNOLD MOVED TO ADOPT ORDINANCE NO. 4855-1312; EXCLUDING CODE SECTION 5-10-2, PARAGRAPH C, STRIKING THE WORDS "OR OTHER BUSINESS" IN THE SECOND LINE; SECONDED BY COUNCILMAN CARLOW; PASSED 6-1 LAMERSON VOTING NAY.**

F. Approval of a professional services agreement with Kelley/Wise Engineering, Inc., to provide engineering services for the Blackhawk Subdivision Drainage Improvements Project in an amount not to exceed \$108,437.00 (Yavapai County Flood Control District funded. City Contract No 2013-160).

Mark Nietupski, Public Works Director, presented. He said it will affect Golden Bear Drive, Golden Hawk Drive and Lakeview Drive. It will involve underground installation of subservice facilities and some surface drainage channels. He said the subdivision was platted before the City had a drainage criteria manual in 1992. The drainage improvements are not scheduled until FY2015, to coincide with some street reconstruction activities.

Councilman Blair asked why it takes so long to discover these drainage issues and said that he was frustrated that the tax payers had to spend money to repair what the developers should have done originally.

Mr. Nietupski said this is an opportunity to utilize funding through the Yavapai County Flood Control District, which the City contributes money to, through the taxation process.

Councilman Scamardo said this was recognized when the City was doing the rewrite of the Land Development Code. He explained what happened at the time the developments were being built and said the City did not sign off on change orders when engineering was affected. He said the City now has to sign off on the changes.

**COUNCILMAN BLAIR MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KELLEY/WISE ENGINEERING, INC., TO PROVIDE ENGINEERING SERVICES FOR THE BLACKHAWK SUBDIVISION DRAINAGE IMPROVEMENTS PROJECT IN AN AMOUNT NOT TO EXCEED \$108,437.00 (CITY CONTRACT NO. 2013-160); SECONDED BY COUNCILMAN SCAMARDO; PASSED UNANIMOUSLY.**

G. Approval to purchase Juniper network switches from CenturyLink using State contract pricing in an amount not to exceed \$118,000.

Mark Woodfill, Finance Director presented. He said this is a replacement of the City's existing switches and there is a full ten year warranty. This is part of the City's annual service maintenance.

**COUNCILMAN ARNOLD MOVED TO APPROVE THE PURCHASE OF JUNIPER NETWORK SWITCHES FROM CENTURYLINK USING STATE CONTRACT PRICING IN AN AMOUNT NOT TO EXCEED \$118,000.00; SECONDED BY COUNCILMAN CARLOW; PASSED UNANIMOUSLY.**

H. Ratification of emergency purchase of one (1) each Rice Lake low profile truck scale from Town & Country Scale Company, Inc., in the amount of \$49,957.90.

Councilman Kuknyo declared a conflict of interest and left the dais at 5:32 P.M.

Stephanie Miller, Director of Field and Facilities Services presented and said the two existing scales are original to the building from 1991. She said they are used for loading trailers to haul solid waste and recyclable material. Noting that they received bids from three vendors, she said there is funding available in the current year budget.

**COUNCILMAN ARNOLD MOVED TO RATIFY THE EMERGENCY PURCHASE OF ONE (1) EACH RICE LAKE LOW PROFILE TRUCK SCALE FROM TOWN & COUNTRY SCALE COMPANY, INC., IN THE AMOUNT OF \$49,957.90; SECONDED BY COUNCILMAN CARLOW; PASSED 6-0.**

Councilman Kuknyo returned to the dais at 5:35 p.m.

I. Legislation Update.

Alison Zelms, Deputy City Manager, gave the legislative update and noted that there was a stalemate going on with various bills.

**III. ADJOURNMENT**

There being no further business to be discussed, the Regular Voting Meeting of April 9, 2013, adjourned 5:41 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 9<sup>th</sup> day of April, 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