

PRESCOTT CITY COUNCIL
COUNCIL STUDY SESSION
PRESCOTT, ARIZONA
NOVEMBER 21, 2006

A STUDY SESSION OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, NOVEMBER 21, 2006, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Pro Tem Roecker opened the meeting at 3:00 P.M. and asked City Clerk Elizabeth Burke to call the roll, which was as follows:

Present:

Mayor Pro Tem Roecker
Councilman Bell
Councilman Blair
Councilman Lamerson
Councilman Luzius
Councilwoman Suttles

Absent:

Mayor Simmons (absent)

□ SUMMARY OF CURRENT OR RECENT EVENTS

Manager Steve Norwood announced that if residents' normal garbage pickup was on Thursday, it would be moved to Friday this week because of the Thanksgiving Day Holiday.

Councilman Steve Blair asked for a moment of silence for Frank Zunick who passed away last Tuesday. (Mr. Zunick was the developer of Prescott Highlands Subdivision.)

Mayor Pro Tem Roecker announced the Public Hearing for the Boulders Office Park was not being held today as previously advertised but would be held December 5 and 12; he was sorry for any inconvenience to anyone, that there had been an error in the publication and it had to be moved to the December meetings.

I. PRESENTATIONS

A. Introduction of New Businesses.

David Mauer, CEO of the Prescott Chamber of Commerce introduced the following businesses:

1. Mountain High Five Art Gallery, 110 S. Montezuma Street, Suite H.
2. Smooth Transitions, 64 Oakmont Street
3. Pinnacle Security Systems/ADT, 13108 Santiago Street, Dewey
4. Fastsigns, 172 E. Sheldon Street, Suite 172B

B. Presentation to Tom Pleitgen of the Prescott Fire Department.

Fire Chief Darrell Willis explained he was very honored to have the opportunity to introduce Tom Pleitgen back into the community. Major Tom Pleitgen had been in Iraq for several months and the Fire Department was happy he was back safely and they were putting him back to work.

Mr. Pleitgen briefly discussed his experiences in Iraq. Councilman Lamerson thanked him for his service and Mayor Pro Tem Roecker said "you and your family deserve our gratitude".

II. DISCUSSION ITEMS:**A. Ratification of emergency procurement of a replacement 100KW generator for the Willow Lake Regional Wastewater Lift Station from Empire Power Systems in the amount of \$30,587.98.**

Public Works Director Craig McConnell explained staff was requesting ratification of the procurement of a generator that was necessary to replace an existing generator that was 28 years old and parts were not available to repair it; it provided emergency power to the wastewater lift station in the Willow Lake area; the Procurement Code provided that an emergency procurement must be ratified by Council at the next Council meeting.

Councilman Blair asked if the pump was scheduled to be replaced in the future and Mr. McConnell responded it was a backup generator and used in an emergency and had not been scheduled for replacement but it was 28 years old.

B. Approval of acceptance of 410-federal grant funds in the amount of \$60,000.00 from the Governor's Office of Highway Safety to be used during the period of October 2006 through September 2007 for continued operation of the Tri-City DUI Task Force.

Police Chief Randy Oaks explained this was the approval and acceptance of grant funds for the tri-city DUI task force which had been in existence for more than 11 years; the Prescott Police Department was the grant administrator and the grant was in the amount of \$60,000.00 and was for a period of 12 months; one public event was required per month and a saturation point was set for later this month.

Councilman Lamerson asked how much in grant money had been brought back into the community in the last year and Chief Oaks responded he would find the answer to that and let Council know.

C. Award of bid for three communication towers to Communications Services Incorporated in the amount of \$288,660.00, plus tax.

Fire Chief Darrell Willis explained this was the first phase of the communications project that had been discussed for the past four years and consisted of putting up three towers at this time, and the three sites were at Indian Hills, the Mingus Reservoir, and the Peavine Trail Overlook. Specifications would be developed to construct buildings on the sites; the Water Department was in the process of enlarging the water tanks and that had to be done before placing the towers on the same site; the towers wouldn't be operational for awhile but there was \$2 million available to get started; this was the first phase of possibly ten phases. Four vendors responded to the bid but three of them were considered a no bid; some companies could not set up less than six towers as it was not financially feasible for them; it was decided to deduct the cost of the Performance Bond, \$12,300.00, as the company wouldn't get paid until the towers were completed to the City's satisfaction.

Councilman Blair mentioned the Glassford Hill site which would be shared with Central Yavapai Fire District and the Prescott Valley Police Department and asked if that was still a part of the total project. He said in the first phase the towers would only be constructed and not hooked up to anything and Chief Willis replied they had been working with the State Land Department on the Glassford Hill site for over a year and still had no guarantee it would be possible to use it and the project would continue with or without Glassford Hill, however, there might be some areas of Prescott that wouldn't be covered as well as other areas without a tower there; the first phase of the project was to get started and build three towers with the funding that was available.

Councilwoman Suttles asked if this was part of the Police Department project and would be connected with the Regional Communications Center, and she asked where the money came from. Chief Willis replied it was part of the same project and would be the backbone of the public safety communications system, and the funds were in the Capital Improvement Project fund and had been carried over year to year.

Councilman Blair asked when the project was up and functioning if it would keep track of where each police car and fire truck was and if there would be any dead spots. Chief Willis replied the towers would relay a signal from the automatic vehicle locator and mobile data computer in the vehicles and the communications center would know where each vehicle was and which one could respond the fastest to an emergency; there would be no dead spots.

- D. Authorization to enter into a construction contract with FCI Constructors, Inc. for the Fleet Maintenance Facility using the Construction Manager at Risk form of procurement, not to exceed the already-budgeted amount for construction and equipment of \$4,362,843.00, with a guaranteed maximum price of \$4,030,000 for construction.**

Councilman Bell declared a conflict of interest as he had a financial interest in the project.

Administrative Services Director Mic Fenech explained this item was to enter into a construction contract using the Construction Manager at Risk form of procurement in an amount not to exceed \$4,362,843.00. He said that when the central garage was built there were 180 vehicles in the City fleet and now there were over 500 vehicles and the new facility would be four times the size of the current facility.

Councilwoman Suttles asked Mr. Fenech to explain the Construction Manager at Risk procurement method. Mr. Fenech replied in a design/bid/build method the architect was paid to design the building, the building was bid, and then a contract was awarded to build the facility and many times the cost of the construction of the facility would be over the budget amount. In a Construction Manager at Risk contract, the architect, the project manager, staff and a qualified contractor all worked together to design, bid and build a facility that was within the budget. The City entered into a contract with FCI after receiving Statements of Qualifications and interviews; the Construction Manager provided scheduling of the project, set the budget, hired the subcontractors and guaranteed completion of the project; a guaranteed maximum price of \$4,030,000 for the construction of the building was provided by FCI and a total project budget of \$4,362,843.00 included a 7% contingency amount.

Councilman Blair asked if it would be difficult to get them back here if there were problems following construction and if there was a warranty period. Mr. Fenech responded the contract was a good one and was very specific in terms of performance and the warranty could be renewed if there was a problem toward the end of the original warranty.

Attorney Gary Kidd agreed staff was very comfortable with the contract and it was a very complete contract.

Manager Steve Norwood asked if it was possible local contractors would be hired to do most of the work and Mr. Fenech replied it was very possible.

- E. Notice of public hearing (November 28) for consideration of a liquor license application from William G. Tracy, Agent for Dinner Bell Café, Inc. for a new Series 12, Restaurant, license for Bill's Place, to be located at 107 S. Cortez Street.**

Clerk Elizabeth Burke explained the public hearing would be held next week for the liquor license application for Bill's Place, to be located at 107 S. Cortez Street; the property was posted October 31 and no comments were received.

Councilman Blair said he would like to know how many liquor licenses were on Cortez Street and what kind of pressure that put on Police and Fire Departments and public services. Ms. Burke replied that she would provide that information to the Council.

Councilman Luzius commented this particular location already had a license for more than 10 years and this wouldn't be adding an additional license to the area, but it was a good idea to keep track of the liquor licenses.

- F. Adoption of Resolution No. 3786 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, urging the securing of our borders against foreign terrorists and illegal aliens, and encouraging and endorsing the enactment of effective illegal immigration legislation designed to effectively stop further illegal immigration and to reduce and eliminate the substantial numbers of people who are present within our national, state and local borders illegally.**

Attorney Gary Kidd explained the resolution was drafted by the Legal Department based on comments over the past six months by Council regarding their concerns about the issues of illegal aliens and immigration as it affected the City of Prescott and all of the border states. The resolution addressed (1) the securing of the border by the Federal Government, (2) the presence of illegal aliens in the City of Prescott and in Arizona, (3) encouraged legislation in the State of Arizona, and (4) requested resources and Federal funding and legislation to allow local governments to have a more active role with immigration and crimes related to it.

Councilman Blair remarked he was glad this came out; that it needed to be stated and stated clearly, although several other communities had passed similar resolutions were now facing lawsuits. He asked why aliens were allowed to stand on city property on Lincoln Street and why a sign wasn't put up saying "No Trespassing" and citing an ARS number or City Code number, or have the area fenced, even though he didn't like more signs or fences.

Attorney Gary Kidd answered that was an issue of day laborers and problems with the Ninth (9th) Circuit saying that day laborers, whether legal or illegal, had a

Constitutionally-recognized and protected right to seek employment on public property; day labor cases didn't go far in the court system.

Councilman Blair asked if it made a difference if the prospective employee was working under a coyote who was taking some of their money and Attorney Kidd replied that would be an immigrant smuggling issue but that was hard to prove.

Councilman Lamerson commented there were four initiatives on the State of Arizona election ballot in favor of doing some things; Council took an oath to abide and enforce the law; the resolution solicited State and Federal assistance to help Council do their job; the City was subjected through the Police and Fire Departments, the schools and streets and other ways to incur costs that weren't scheduled and it wasn't equitable to charge taxpayers to support those that were here illegally; it was possible some city services would have to be dropped; he had sent the resolution to Representative-Elect Andy Tobin who had forwarded it on to the Speaker of the House and it was being reviewed by other legislators and he had received some positive feedback.

Attorney Kidd added the Immigration Reform and Control Act was passed in 1986 and amended since then but included the fact it was illegal to knowingly hire someone who was not a legal worker or anyone without a green card or work visa; Arizona Revised Statutes dealt with immigration smuggling and that could be pursued but information was often difficult to obtain.

Councilman Luzius commented this was a good resolution and he supported the comments of Councilman Lamerson; it was sad to think the City couldn't stop the use of city property for the solicitation of work; there were Federal, State and local laws and they were being broken; a murder was recently committed in Prescott by (alleged) illegal aliens and they were an element to keep an eye on; the police had their hands tied long enough and he wished the Federal government would stand up and do the right thing.

Councilwoman Suttles added towns and cities needed to be allowed to enforce immigration laws; the resolution made people uncomfortable but it was important to get the borders secured to stop any further immigration and asked the resolution be read.

Attorney Gary Kidd read the full resolution.

Speakers comments:

Glady Miller, 1210 Sarah Kay Circle, said she had studied this issue for a long time and didn't know until yesterday the Council was going to consider this resolution. Words like terrorists and criminals were insulting and inflammatory and asked if she could bring in more compassionate language to put in the resolution before it was voted on next week; she suggested bypassing the State

Legislature and try to get the Federal Government to pass a comprehensive bill; this was a very sensitive issue in this country and the language in the resolution was punitive and derogatory and some things were myths and had no facts to back them up; the Federal Government needed to start looking at this issue as they were responsible for securing the U.S. borders; the Council should review Senator John McCain's proposed bill.

Mayor Pro Tem Roecker suggested Ms. Miller submit her comments to Councilmembers by Monday as the Council would discuss this resolution again next week and possibly vote on it.

Bob Park, 4870 Butterfly Drive, commended the attorney and Council for taking this issue up strongly; there were things that could be done without waiting for the Federal government to do what they should have been doing for the last ten years; he suggested starting with small steps, take what was available and make it better; there were violations locally and statewide that could be enforced; there were people out among the day laborers acting as an agent to find them work; he suggested involving Prescott Valley, Chino Valley and the Yavapai County Sheriff's Office in discussions on what could be done on a local level; the criminal activity statistics could be reviewed.

Mr. Park suggested using the Yavapai County Sheriff's Office intake center for booking and video teleconferencing with National Crime Information Center (NCIC) to process the illegal immigrants locally and interrogate them 3,000 miles away and do the paperwork necessary; grants could be used to buy equipment, such as radios or wireless web cams; a support group called IRLI (Immigration Reform Law Institute) had attorneys who specialized in immigration issues and could provide information to the Council and they were willing to stand up and help support the Council's goals.

Jerry Brady, 9970 Shirley Lane, former agent with the U.S. Department of Justice and the INS Border Patrol, remarked a survey by Mexico of banking transactions indicated there were possibly as many as 20,000,000 illegal aliens in the United States and about 20% of them were wanted in Mexico for serious crimes.

Mr. Brady gave a brief history of the camel militia recruitment located in Chino Valley in 1855 which was an al-quaida organization and there were many residents in Mexico claiming to still be associated with the group.

Ligia Many, 640 Maricopa Drive, requested Council study this issue more; there were more than 11 million undocumented people in this country and it was foolish for the Council to think they could just kick people out of the country by applying the law; the borders should be secured; the immigrants should try to legalize their situation; she was a legal immigrant and had gone through the process which was expensive and cost over \$5,000 in fees; it was a difficult and complex process for those who couldn't read or write and needed to hire an

attorney to help them become a legal citizen; the resolution mentioned crime rates and health care costs and she called them myths and proposed to send the Council information on what was fact and what was myth; it was time for local governments to work together on the issue.

James Quinlan, 126 N. Summit Avenue, No. 6 remarked he had just become aware of the resolution yesterday and was concerned over words that were used that were inflammatory and misleading and more thought should go into the resolution; he was concerned that following the September 11, 2001 terrorist attack in New York that terrorists and illegal aliens were now being connected; the terms changed from immigrants, to illegal immigrants, then illegal aliens; there were no statistics to show the crime rate was any higher for immigrants than any other sector; this was a good time to bring this up following the approval of the ballot questions; there were only 5,000 applications per year for people from Mexico to apply for legal citizenship because the waiting was horrendous and the cost was high and maybe the blame should be on the way the U.S. did business.

- G. Approval of Minutes of the Prescott City Council Joint Study Session/Special Meeting of November 7, 2006 and the Prescott City Council Regular Voting Meeting of November 14, 2006.**
- H. Selection of items to be placed on the Consent Agenda for the Regular Voting Meeting of November 28, 2006.**

Councilwoman Suttles presented items to be placed on the Consent Agenda as Items A, B, C, and G.

III. ADJOURNMENT

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 4:35 P.M.

ROWLE P. SIMMONS, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk