

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/SPECIAL
MEETING
TUESDAY, SEPTEMBER 15, 2009
PRESCOTT, ARIZONA

MINUTES OF THE JOINT SPECIAL MEETING/STUDY SESSION OF THE PRESCOTT CITY COUNCIL held on TUESDAY, SEPTEMBER 15, 2009 in the COUNCIL CHAMBERS located at CITY HALL 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Wilson called the meeting to order at 3:00 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Father Darrell Olds, Sacred Heart

Deacon Tony Humphrey gave the invocation in Father Olds' absence.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Roecker

Councilman Roecker led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

Mayor Wilson
Councilman Bell
Councilman Lamerson
Councilwoman Lopas
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

No report.

STUDY SESSION

I. DISCUSSION ITEMS

- A. Approval of a three-year Final Plat extension for the Great Escape Condominiums, a Commercial Planned Area Development, comprising 45 warehouse units on approximately two acres located at 2211 and 2213 Cirrus Drive, Prescott Regional Airpark and Commerce Center. (PP08-003, Applicant: KCRL, Inc., Keith Diehl)

Community Development Director Tom Guice said that this was a request for a three-year extension for the submittal of a Final Plat for the Great Escape Warehouse Condominiums. The Preliminary Plat was approved on August 26, 2008. He noted that similar extensions have been made available to others due to the economy.

Councilman Luzius asked if the applicant had paid the proper fees for the extension. Mr. Guice said that the fee is currently \$212. He has left a message that they would need to do that prior to next week's Council meeting.

- B. Adoption of Resolution No. 3990-1020 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the application and acceptance of a grant for Local Transportation Assistance Funds (LTAF II) to assist in the continued funding of the transit voucher system program. (Total \$75,077.08 – City's share \$15,015.42)

Mr. Guice said that these are LTAF II monies and the City qualifies for \$60,061.66 with a City cash match of \$15,015.42 for a total of \$75,077.08. He said that the City's share had been budgeted just in case these became available during the year. They are anticipating a disbursement date in October or November.

Councilwoman Suttles asked where the City's share would come from. Mr. Guice replied that it would come from the General Plan. Mr. Norwood added that the same type of situation arose last year, so they were sure to budget for that possibility.

Councilwoman Suttles asked if all of the cities were getting a percentage. Mr. Guice said that each of the communities in Yavapai County was eligible to apply for and potentially receive the monies. He said that before next week he would provide a list and amounts of those receiving similar funds.

Councilman Luzius thanked Mr. Guice for bringing good news. He said that these funds come from the Power Ball and it appears that in bad times people play the Power Ball more. He said that he endorsed it 100% and hoped they could pass this and get the voucher system back in play because there were a lot of people needing rides. He added that NACOG has always done a good job on administering the vouchers.

Mayor Wilson noted that at last week's Council meeting a member of the public had commented on the need for the vouchers, so this was timely news.

- C. Notice of Public Hearing (September 22) and adoption of Ordinance No. 4717-1014 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the Zoning Map pertaining to that certain property located at the northwest corner of Whipple Street and Merritt Street from “Multi-family Medium (MF-M)” zoning to “Neighborhood Oriented Business (NOB)” zoning. (RZ09-002; Owner: Bill Resnick, Resnick Family Partnership; Agent: Tom Terry, Architect)

Mr. Guice said that this notice of a public hearing scheduled for next week's Council meeting, but comments could be received this week as well, for rezoning of approximately one acre of property located at the northwest corner of Merritt and Whipple.

He said that the General Plan map identifies the property as mixed use and also within the Land Use element there was a presentation on transitional areas, which this has been identified as.

Mr. Guice showed a site plan on the overhead, depicting three buildings and the trees within the development. He said that the Planning and Zoning Commission had quite a bit of discussion on the application. They discussed it three different times at meetings, had an on-site visit and ultimately their recommendation at first was to provide direct access from Whipple, but that motion failed 2-4. The following motion did not allow access off of Whipple, but rather the alley off of Merritt, and it passed 4-2.

He said that there has been some public input and there is some opposition. Included in the packet was a petition signed by three properties on the west side as well as the Ungers. Since that was received, he believed that the name of Ms. Moore had been withdrawn. He said that the Ungers have provided a letter of opposition, and due to that it kicks off the need for a supermajority vote of 6 out of 7 members.

Mr. Guice said that they did have the City Traffic Engineer present as well as representatives from the Fire Department, and also Len Scarmardo

from the Planning and Zoning Commission for any questions that anyone may have.

Mayor Wilson said that he asked Mr. Guice to contact Jim Lloyd of Shuttle U, located across Merritt from the property, and he was in support of the development.

Councilwoman Suttles asked if the only ingress/egress was from the alley. Mr. Guice said that was correct. He said that there were no curb cuts off the Whipple side and Planning and Zoning was recommending no access from there. He said that he believed Mr. Mattingly would say some accesses are better than others.

Mr. Guice said that the Fire and Police Departments were supportive as they believed it met Code and they had no concern with access or the ability to turn vehicles around.

Councilman Luzius said that he had some major concerns about the development. He said that he most always intends to be in favor of commercial development, but they seem to find little pockets, regardless of what it does to the established neighborhood, and say go ahead. Sometimes he takes exception, and he felt that the comment on page three regarding the current zoning and what could go on the property was an attempt to plant a fear factor.

Councilman Luzius said that he had concerns with the width and use of the alley. He said that the memo states that they could put in 19 apartments, 35 feet high, but he asked where they would park. He said that he wished they would stop doing that.

Mr. Norwood said that it was not a fear factor; they were stating what the current zoning would allow. He said that they have seen multifamily be very hot in the market. Councilman Luzius said that he appreciated the comment, but that was his feeling.

Councilman Luzius said that just because the Fire Department went out and found it to meet Code does not mean they were happy about it.

Mayor Wilson said that staff needs to bring facts about the matter forward as far as the current zoning. He saw it as a statement of fact. He said that they have seen it all over the City and thinks it is a reality.

Councilman Lamerson asked what type of parking requirements they would have for 19 apartments. He said that a property owner does have the right to the highest and best use of their property.

Mr. Guice said that he did not have the numbers for parking requirements on hand, but under the current scenario, if it were developed as multifamily the only action to be taken by the Council would be consideration of a water service agreement. He said that there are particular things which may constrain the number of units, but there are a number of ways to provide parking, such as under the structures. Councilman Lamerson said that water could be an issue, but maybe not since there was some already accounted for with existing zoning.

Rob Behnke, 1062 Yavapai Hills Drive, said that the property owners of the house, Mr. and Mrs. Unger, had asked him to make a presentation on their behalf. He said that after reading the report dated 7/31 he wanted to emphasize that the Fire Department does require a 20' inside and 48' outside dead in turning center and that did not show anywhere on the project.

He said that when they did the Code, one of the issues was problems with alleys and the research showed them how many fire vehicles, etc. have been burned, and accidents have occurred, when alleys are dead ends.

He said that the Ungers have a unique problem. They have lived there for a number of years, and have a child that lives with them, and their bedroom is eight feet from the alley accessway. When they have that type of access only available they will have vehicles all day long. Also there would be trash trucks back and forth, so there is a real problem with them there and how their lifestyle will be impacted.

He saw nothing in the report to indicate that they had dealt with those issues, and the General Plan was very clear that they have to deal with them.

Mr. Unger, 114 Merritt Street, said that he agreed with what Mr. Behnke said and he would like to know what kind of units they would have. Mr. Guice said that he would need to refer to Dr. Resnick. He said that at this point it has been discussed as General Office; if it was medical office it would have different parking requirements. He said that he did not believe they have decided at this point.

Dr. Resnick said he has been in Prescott for about six years, and with the project they have been putting together they have tried to consider the neighborhood, including the adjacent neighbors. He said that there were a lot of beautiful trees along Whipple and they intend to keep those. He said that they have spoken to Mr. Under and have addressed fencing, speed humps, trees, etc. He said that what is proposed is much nicer than what is currently there. He said that they have not decided what type of

project it will be, but currently he was not intending to have a medical practice there.

Dr. Resnick said that he thought it was important to note that Mr. Unger is not a resident of Prescott as he lives in Sedona. The implication that this would have a daily impact is not accurate. He said that he would be glad to do a right in/right out on Whipple, but the Commission was split on that although Mr. Mattingly said it was appropriate.

Mayor Wilson asked when the issue of number of parking spaces would come back to Council. Mr. Guice said that would come back at the time that the City processes a Preliminary Plat or commercial development permit.

Councilwoman Suttles said that the area in question has been impacted already by development. She said that it appeared that medical offices would be the least of any kind of business, traffic-wise. Mayor Wilson said, and Mr. Guice concurred, that medical offices requires more parking.

Councilman Lamerson said that he appreciated the willingness of the doctor to invest in Prescott. He said that they knew what it was when they bought it and knew what it was zoned, and what it allowed. He said that they have certain private property rights, and they have a right to develop it as is. He asked Dr. Resnick if they were prepared to develop it under the current zoning if the zoning request was denied. Dr. Resnick said that was a financial decision to be made. Councilman Lamerson said that there is no guarantee to a zoning change, and there is no guarantee that the Ungers would not end up with 19 apartment units.

Councilman Roecker said that it seemed to be a low-impact use of the property, but he was concerned about the dead-end alley. Deputy Fire Chief Bruce Martinez said that it did meet Fire Code. He said that the two entrances into the development off the alley would be required to meet the radiuses in the Code. He said that they would be able to make a y-shaped turnaround and that is why it meets the Code.

Councilwoman Lopas asked if, during the process, anyone had talked with the adjacent property owner, Dr. Moore. Dr. Resnick said that they did talk with them and they were supportive of the project and encouraging. Councilwoman Lopas asked if there was any discussion of the alley connecting to his property. Mr. Guice said that he recalled Dr. Moore approaching the City some time ago and he would check into that.

Mr. Unger said that he did live in Prescott at this location. He used to live in Sedona, but he currently does live on the property.

Barbara Vincent, 813 Second Street, said that she lived on the south side of the alley and wanted to remind them that they came out to stake the alleyway to be paved for use, and it is right up against her fence. She said that she was concerned about traffic going in and out. She said that she questioned the validity of the fire trucks being able to turn around. She said that she had a proposal on a five-acre parcel and they made her give up some of her property, which was not as restrictive as this. She asked why something good for one was not good for another. Additionally, she said that she sees Mr. Unger frequently and he was in Prescott.

Lisa Barnes, 1513 Linwood Ave., said that the Ungers approached her specifically about the alley issue. She has nothing to do with rezoning, but these people did their homework and she was impressed with their research. She said that they found what a definition of alley was and showed it to her, which states that it is not a primary entrance for development. She said that the definitions state that a street is 28' and an alley is 24' which is what this was. She said that there would be interactions with cars and pedestrians and they would appreciate the Traffic Coordinating Committee looking at the traffic safety.

Mr. Mattingly said that it was still going to be an alleyway; therefore, it would be a 24' paved path. He said that they only have a 25' right of way. He said that he did not know how they could address the safety concerns, and the developer has agreed to put in speed humps. He said that the site has been used as primary access for the apartments at the end and the west for several years. In looking at it he does not see a safety problem. He said that they could take it to the TCC, but he was not sure what they could bring back.

Dr. Resnick said that if they were not allowed to have access from Whipple, the only access would be off the alley. He said that they could not be landlocked with no access to their property.

Councilman Lamerson asked Mr. Mattingly if the alley would be permitted as access if they developed apartments. Mr. Mattingly said that the treatment of the alley would be the same, whether they allowed the rezoning or if they put in apartments. They would still require the 24' paved width.

Councilman Roecker said that even though the definition described an alley as not being the primary access, if there is no other access, then it would become primary. Mr. Mattingly said that it was a definition; not a restriction on what the City can do.

Len Scamardo, 313 Double D, said that they were dealing with two items; the rezoning of the property and the use of the alley as access. He said

that all members of the Planning and Zoning Commission were in favor of the zoning. When the issue of the site plan came up, they had cuts off of Whipple. After a site visit, a number of the members felt that the radius of the curb from the red light was such that the traffic traveling would be a hazard to have right in, even though Mr. Mattingly advised otherwise.

- D. Approval to purchase five Panasonic Toughbook Mobile Data computers, along with a three-year protection plan for each device, for a total amount of \$22,083.43 from Insight Public Sector.

Deputy Police Chief Mike Kabbel said that on April 19, 2009 the Council approved the Police Department to apply for a grant. He said that the grant has been received and one of the items to be purchased was five MDT's for use in the front line vehicles. He said that they could not identify any local vendors and the cheapest bid pricing was through the U.S. Community bid contract pricing.

Councilwoman Suttles asked what the longevity was for this type of equipment. Chief Kabbel said that they would hope to get between five and seven years. He said that they have made three purchases in increments over a period of time and they have been staggered. They will continue to seek grants to accomplish moving forward with staggered replacement of equipment as it meets the end of its life.

- E. Approval of a five-year Agreement with CableONE for public service announcements in the amount of \$1 per year.

Administrative Services Director Mic Fenech said that this agreement was for CableONE to provide up to 80 public safety announcements (psa's) per month on their channels, at a cost of \$1 per year for five years.

Councilwoman Suttles said that this came up at the time they were considering the new contract with CableONE and asked how this came about. Mr. Fenech said that when Prescott Valley did their agreement with CableONE, it was before the legislation had changed that said any items like this could not be considered in the franchise fee agreement without the actual value coming off of the fee. He said that CableONE had a strong desire to continue to provide those PSA's and the City had asked to do that. Both parties agreed to do it in a separate agreement.

Councilman Luzius thanked Mr. Fenech for doing the work on this and bringing it forward.

- F. Approval of payment to Prescott Chamber of Commerce in the amount of \$23,000.00 to be used for the Annual Courthouse Lighting event on December 5, 2009.

Economic Development Director Jane Bristol said that for several years the Council has directed contributions to the Prescott Chamber of Commerce to support and enhance the annual Courthouse Lighting Event using bed tax funds. In FY2008, the bed tax rate was increased to its current level of 3% and Council decided to contribute up to 5% of bed tax revenues specifically for this event which would amount to \$31,536, but due to decreased revenues this year the suggested contribution amount was decreased to \$23,000 (around 4%).

Councilwoman Suttles asked if staff did not know that the bed tax revenues were not going to be what they were before at the time of preparing the budget. She said that they have a number of organizations ranging from 4% to 2.2% and asked how they came up with the percentage, and asked if the organizations knew they would be receiving less. Mr. Norwood said that the percentages were worked up collectively with the groups.

He said that the Chamber Lighting was to receive 5%, but they reduced it to 4%, which totals \$23,000. He said that all of the groups went in thinking they were going to be higher than the \$31,000 and they did not get with them individually. He said that during the budget process in May their projections were from April, and they thought that the summer would do better than it has.

Mr. Norwood said that he knew the Council had received a letter requesting it be increased back to the \$31,000 and he would support restoring it as he believes it is a signature event, like the fourth of July, for Prescott. He said that Arizona's Christmas City is not a one-day event; it lasts over a five to six week period. He said that he believed there was an opportunity to fund money from other areas if the Council desires to do so.

Councilwoman Suttles said that they need to bring the groups back in because the PDP is not the only group receiving those funds. Mr. Norwood said that they should have met with the groups early on, but the numbers are changing monthly. He said that when June and July are not good, he is not hopeful for September and October.

Mr. Norwood said that they were past the key months for PACT advertising, and may be able to take a little more from them as they were currently at \$167,000. He said that they also have a few dollars in the economic development contingency, and he thinks this is an economic

development event for the community. He said that he was confident he could find the money.

Mayor Wilson said that before they commit they need to make sure they would have the money. He has talked with Margo Christianson and lodging is at a 45% decline, and he does not believe they are finished. They need to be careful, and they need to be fair.

Councilman Roecker said that he would support instructing the City Manager to look for funds in other places to get back up to the \$31,000, without doing harm to others. He said that it was a signature event and very important for the community.

Councilman Bell said that they were all in it together. He said that it was a great event and it brings in a lot of people. He asked if there was any way of using some of the 40% directed to the City. Mr. Norwood said that they had already done that. He said that they had a \$60,000 contingency and that is now gone. He said that the City has taken a hit, but there may be other programs that have come in lower that they need to look at.

Councilwoman Lopas asked if the funding was still needed for the Elks Opera House since it is dark at this time. Mr. Norwood said that money is set aside for the big opening.

Councilman Luzius said that he had a discussion today with Ms. Hadley and he would like to work with her and try to find some money. He said that he knows it is a sore subject but if the increase in the bed tax had gone to 4% rather than the approved 3%, they would be looking at \$700,000+ in revenues rather than \$557,000.

Dave Maurer, Prescott Chamber of Commerce, 117 West Goodwin, said that he liked the direction they were heading, but he wanted to point out that all revenues flow through the Chamber for the lighting, and he wanted to give a quick recap of where they stood.

He said that as of today they have either pledged or money in hand, including the \$23,000 right now from the City, \$58,000. Each of the last years they have been at \$78,000, so they were experiencing the same thing as the City—the money is not there because of the times. He said that they were doing reasonably well. He said that early on they met with the company that installs the lights and they understood the financial situation. They are making some changes that he does not believe will detract from the overall theme.

He said that sensing a need for more funding the Chamber and PDP are doing a fundraising event on Saturday night, entitled Christmas in

September. They were selling 200 tickets at \$100 each, and just before coming to the meeting they had 12 tickets left. He said that those funds were accounted for in the amount mentioned previously.

- G. Adoption of Ordinance No. 4718-1015 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) for the Wastewater Treatment Plants Plan and Design Project, through the Clean Water Program #710073-10, authorizing the Mayor and staff to sign any and all WIFA funding documents pertinent to said project and declaring an emergency.

Finance Director Mark Woodfill said that this was the last of the four loans through WIFA, and it was for the wastewater treatment plant design and plan. He noted that the ordinance included an emergency clause.

- H. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Jennifer Sarmiento for a Series 6, All Spirituous Liquor Bar, license for The Drunken Lass Irish Pub located at 218 West Gurley Street.

City Clerk Elizabeth Burke reported that this was notice of a public hearing scheduled for next week for the above license. She said that the property had been posted as required, and no public comment had been received. The applicant has been requested to attend next week's meeting for any questions that may arise.

- I. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Kim Kwiatkowski for a Series 9, Liquor Store, license for Circle K Store 1995 located at 3101 Willow Creek Road.

City Clerk Elizabeth Burke reported that this was notice of a public hearing scheduled for next week for the above license. She said that the property had been posted as required, and no public comment had been received. The applicant has been requested to attend next week's meeting for any questions that may arise.

- J. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Kim Kwiatkowski for a Series 10, Beer & Wine Store, license for Circle K Store 1576 located at 1245 East Gurley Street.

City Clerk Elizabeth Burke reported that this was notice of a public hearing scheduled for next week for the above license. She said that the property had been posted as required, and no public comment had been received.

The applicant has been requested to attend next week's meeting for any questions that may arise.

- K. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Elizabeth Ann Wilson for a new Series 10, Beer & Wine Store, license for Gas Plus located at 421 East Sheldon Street.

City Clerk Elizabeth Burke reported that this was notice of a public hearing scheduled for next week for the above license. She said that the property had been posted as required, and no public comment had been received. The applicant has been requested to attend next week's meeting for any questions that may arise.

Councilman Luzius said that he was glad to see this come back as the building has been vacant for several months.

- L. Approval of minutes of the Prescott City Council Public Workshop of September 8, 2009; the Regular Voting Meeting of September 8, 2009; and the Study Session of September 15, 2009.

No discussion.

- M. Selection of items to be placed on the Regular Voting Meeting Agenda of September 22, 2009.

Councilman Bell said that those items on the Consent Agenda were A, B, D, E, G and L. The remainder would be on the Regular Agenda.

II. **ADJOURNMENT**

There being no further business to be discussed, the Study Session of the Prescott City Council held on September 15, 2009, adjourned at 4:11 p.m.

SPECIAL MEETING*

1.* **Call to Order.**

Mayor Wilson called the Special Meeting to order at 4:11 p.m.

- 2.* Acceptance of a Federal Aviation Administration (FAA) Grant in the amount of \$85,000.00 (\$80,750.00 Federal Share and \$4,250.00 City Share) for conducting an FAA-required Wildlife Hazard Assessment at Ernest A. Love Field and authorizing the Mayor and staff to take any and all actions necessary to accomplish the above.**

Mr. Norwood said that they previously had some fun with this item when they were applying for the grant, but they have now received the grant. He said that the reason it was on this agenda was they were notified last week that they received it, but needed to accept it by the 18th. They did not want to push the FAA back to wait until the 22nd meeting for approval.

Councilwoman Suttles asked if the City got to sit with whoever would be doing the assessment and have them understand that they know there is a golf course, water ponds, etc.

Mr. Norwood said that they will be going out for a Statement of Qualification as there are standards to be met, but she was welcome to sit in on those if she liked. Councilwoman Suttles said that she would like to be notified of those meetings.

Mr. Norwood noted that golf courses are not necessarily taboo for airports. There are three 36-hole resorts around the Dallas-Ft. Worth airport so they can exist. He said that this will have more to do with what the City may need to do to mitigate the problem.

COUNCILMAN BELL MOVED TO ACCEPT A FEDERAL AVIATION ADMINISTRATION (FAA) GRANT IN THE AMOUNT OF \$85,000.00 (\$80,750.00 FEDERAL SHARE AND \$4,250.00 CITY SHARE) FOR CONDUCTING AN FAA-REQUIRED WILDLIFE HAZARD ASSESSMENT AT ERNEST A. LOVE FIELD AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL ACTIONS NECESSARY TO ACCOMPLISH THE ABOVE; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- 3.* Adjournment.**

There being no further business to be discussed, the Special Meeting of the Prescott City Council of September 15, 2009, adjourned at 4:15 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk