



CITY COUNCIL VOTING MEETING MEETING

VOTING MEETING MINUTES

TUESDAY, JULY 13, 2021, 3:01 PM

201 S. Cortez Street

Prescott, AZ 86303

City Council Chambers

Greg Mengarelli, Mayor

Alexa Scholl, Mayor Pro Tem

Cathey Rusing, Councilmember

Steve Blair, Councilman

Steve Sischka, Councilman

Phil Goode, Councilman

Clark Tenney, Councilman

MINUTES OF THE VOTING MEETING OF THE PRESCOTT CITY COUNCIL VOTING MEETING HELD ON JULY 13, 2021, IN THE 201 S. CORTEZ STREET PRESCOTT, AZ 86303 CITY COUNCIL CHAMBERS.

1. CALL TO ORDER

Mayor Mengarelli called the meeting to order at 3:04 p.m.

2. INTRODUCTIONS / ANNOUNCEMENTS

Mayor Pro Tem Scholl stated that she hoped everyone had a wonderful 4th of July and thanked all attendees for coming.

3. INVOCATION - Pastor Jesse Burke with Sanctuary Covenant Church

4. PLEDGE OF ALLEGIANCE - Councilman Tenney

5. ROLL CALL

Greg Mengarelli	Mayor
Alexa Scholl	Mayor Pro Tem
Steve Blair	Councilman
Phil Goode	Councilman
Cathey Rusing	Councilmember
Steve Sischka	Councilman – attended via Zoom
Clark Tenney	Councilman

6. CONSENT AGENDA

MOTION BY MAYOR PRO TEM SCHOLL TO APPROVE CONSENT AGENDA ITEMS 6.A. THROUGH 6.E, EXCLUDING ITEMS 6.B. AND 6.F.; SECONDED BY COUNCILMAN BLAIR: PASSED [7 – 0].

A. Approval of Minutes from the June 15, 2021 Executive Session, the June 15, 2021 Study Session, the June 22, 2021 Executive Session, the June 22, 2021 Study Session, the June 22, 2021 Voting Meeting and the June 29, 2021 Study Session.

B. Approval of City Contract No. 2019-080A4, an Amendment to City Contract No. 2019-080 with Herb Dishlip Consulting for Continued Services Related to Water Resource Management in the Amount of \$50,000. Funding is Available in the Water Fund.

This Item was pulled from the Consent Agenda for further discussion.

Councilmember Rusing asked staff for an update on the Water Resource Water Management System.

Deputy Public Works Director Gwen Rowitsch stated that Herb Dishlip is assisting staff with the update to the city's Decision and Order which is required through ADWR to be updated prior to December 31, 2021. Mr. Dishlip works for the city on an hourly basis and this is the second contract amendment.

Councilmember Rusing asked if the contract is for the upcoming year.

Ms. Rowitsch responded it would probably be for the next two years depending on the amount of hours Mr. Dishlip works.

MOTION BY MAYOR PRO TEM SCHOLL TO APPROVE ITEM 6.B.; SECONDED BY COUNCILMAN BLAIR: PASSED [7 – 0].

C. Approval of City Contract No. 2022-002 for the Purchase of One (1) Vac-Con Mudslinger MS800 Vacuum Trailer from Balar Equipment using the Houston-Galveston Area Council (HGAC) Contract SC01-21 Pricing in the Amount of \$125,715.37. Funding is Available in the Water Fund.

D. Approval of City Contract No. 2022-003 with Tyler Technologies for Annual Support and Licensing of the MUNIS Financial System in the Amount of \$152,427.01. Funding is Available in Various City Funds.

E. Approval of Payment of FY22 League of Arizona Cities and Towns Membership Dues in the Amount of \$28,221. Funding is Available in the General Fund.

F. Approval of City Contract No. 2022-010 with Willdan Engineering for Ongoing Building Support Services in an Estimated Annual Amount of \$140,000. Funding is Available through the General Fund with Partial Cost Recovery.

This Item was pulled from the Consent Agenda for further discussion.

Councilmember Rusing commented that she recently spoke to a local builder who stated there is still a 4-month average wait time to obtain a permit and asked if there is a way to streamline the process for the city's local builders as is done for the mass-production builders.

Community Development Director Bryn Stotler addressed Council stating that Willdan Engineering provides inspection services for the production builder environments in north Prescott as well as

overflow plan review services. This contract has been working as intended, with the inspection services being the most successful part of the contract. Plan review has been an issue due to high volume; staff has outsourced to the fullest extent with Wildan yet still have some protracted timelines on certain types of builds. Staff is working on improving timelines over the next fiscal year.

MOTION BY COUNCILMAN SISCHKA TO APPROVE ITEM 6.F.; SECONDED BY COUNCILMAN TENNEY: PASSED [7 – 0].

7. REGULAR AGENDA (ITEMS WERE TAKEN IN THE FOLLOWING ORDER: 7.A., 7.B., 7.E., 7.C. & 7.D. AND COUNCILMAN SISCHKA LEFT THE MEETING AT 5:30 P.M.)

- A. Discussion Regarding Possible Development at APN 105-04-217A, What is Commonly Known as Petroglyph Pointe Under Existing Business General Zoning Designation.

Councilman Goode stated that he has been contacted by members of the Prescott Lakes HOA who indicated there is a pre-existing master plan for this community that stated the area was slated for an office park. He said he is concerned that there will be a significant change in development and use given it is zoned as Business General (BG) and the developer has merged all parcels into one.

Councilmember Rusing stated that she has similar concerns as she has also been contacted by residents and believes they are owed a chance to air their concerns in a public forum. Any changes that will increase water use, traffic, decrease adjoining property values in a Master Planned community need to be addressed. She commented that she is concerned that this has been approved only administratively and that she would like to see some city zoning ordinances changed to disallow construction of things like water tanks and cell towers next to residential communities.

Community Development Director Bryn Stotler presented a map of the property which has been zoned commercial for almost twenty (20) years. She stated that there currently is not an application for this property so she is unsure what she can answer today.

Mayor Mengarelli asked Ms. Stotler to address the Master Plan and changing the plat.

Ms. Stotler stated that the Master Plan evolved through the M3 companies, the master developers of the Prescott Lakes Master plan. Commercial areas were identified in the General Plan Map as mixed use areas, could go commercial or residential. The office park was plated as BG and does not limit to an office park use. The re-platting was done in 2019 and took the office pads that were depicted on the Petroglyph Pointe original plat off to allow for more flexibility in development. There has been and continues to be a limit of 50 feet height on structures.

Councilmember Rusing asked is there a possibility of apartment complex of 250 units.

Ms. Stotler stated that the acreage calculation determines the density and for BG Zoning and the calculation for this Master Parcel is at 232 units. Would have been the same number of units with nine pads.

Councilmember Rusing commented that this would be two and half times as large as the new Hilton Garden Inn and asked if something that large built right up to single family homes would affect property values.

City Attorney Jon Paladini interjected to state that in the interest of transparency, there is no application and added that if a plan is consistent with zoning, there is nothing to decide. BG Zoning is a vested right of the current property owner and any future property owner, therefore, rezoning the property would trigger a Prop 207 Claim which is a Diminution of Value Claim or a Constitutional Taking Claim.

Councilmember Rusing asked about a community meeting which is scheduled for August 4th and stated she wants to give the public a forum for what is obviously a problem.

Mr. Paladini suggested looking at amending the Land Development Code to update as Council sees fit.

Councilman Goode asked Mr. Paladini to touch on the private property rights initiative that changed the state constitution that references Prop 207 and stated that this handcuffs communities to be able to reduce zoning use without having to compensate the owner.

Mr. Paladini responded that this is a statutory change that states if a city adopts a land use regulation and there are still some viable uses left and that affects a property owner by diminishing the value of that property, the property owner can demand that the city rescind the land use regulation as to that property or pay the diminished value.

Councilmember Rusing asked if every developer applicant waives their private property rights.

Mr. Paladini responded that they waive their claim to diminished value and Prop 207 does apply to the single family homeowners whose land value may be diminished.

Mr. Paladini responded that it applies only to the property that is regulated.

City Manager Michael Lamar asked for confirmation that if one or two allowed uses are removed, it would trigger an issue with Prop 207.

Mr. Paladini answered that it could depending on what uses are removed.

Mr. Lamar asked if the city were to remove residential uses and multi-family from BG Zoning, if everybody that previously had that right would petition the city stating they now have diminished property value.

Mr. Paladini confirmed.

Councilmember Rusing asked about grandfathering in BG Zoning if the zoning was changed if that could be made standard so if development increases water use or traffic that it has to be reviewed by Planning and Zoning.

Mr. Paladini responded that at this point no process has been by-passed, as this type of revision would be allowed by right.

Mr. Lamar stated that what everyone needs to understand is that city staff administers the rules as set by Council, if Council wants the rules changed they need to change them. In the interim, staff needs to follow current rules.

Mayor Pro Tem Scholl commented that Council does not know the plan as indicated by some audience members today as no application has been received. She encouraged the public to attend the meeting on

August 4th and meet with the developer to air their concerns. Until there is something for Council to review, she cannot comment. Additionally, she expressed her frustration with the Council members that added this item to the agenda, and stated that she feels like they are misleading the public and giving them false hope that there is something Council can do for them today.

Councilman Blair stated that he was on the dais when this plat was approved there was not one person who did not like this plan and the zoning and uses have not changed. The best thing to do is to work individually with the owner of the property.

Mayor Mengarelli echoed Councilman Blair's comments. He is not happy that the public may have been misled, but nothing has been done at the city level to change the current zoning.

Councilman Sischa concurred and added that while he understands the public's frustration the city is limited to what can be done and added that he is unaware of the developer's proposal. He suggested working with the developer to try to find common ground.

Councilmember Rusing asked staff to address if the Master Plan is changeable or not.

Ms. Stotler responded that a Master Plan is a guideline within which more specific platting and uses fit. She continued to address the Mayor, stating that the original iteration of the Petroglyph Pointe Office Park plat included the property that High Gate Memory Care is on. It also had 5-6 pads that were kicked out as part of the office park plan and was re-platted to afford the ease of development; it has happened there before and is not unusual for that to happen and required only administrative review.

Member of the public Jim Joannes addressed Council stating that the decision to take the plat from 9 parcels to 1 was a ministerial decision made by a city employee. City Council can easily reverse that decision. The sum of the value of selling the 9 parcels could be greater than selling as one large parcel. He stated that he knows the developer is going to develop the property into apartments, has developed the same apartments down the street. Prescott Lakes community should have been given notice so they could object.

Mr. Paladini responded that a ministerial act is non-discretionary as a matter of law. Nowhere in any State law or City Code is it implied that a city government can subdivide someone else's property.

Mr. Lamar added that the current recombination have been given by Council for administrative discretion and that cannot be changed now. He asked Council to decide whether all recombination will become their prevue or implement what is on the books.

Member of the public Michael Broggie addressed Council stating many of the residents have been investing in Prescott for twenty years and have recently become displeased because they were not informed of the impending change of use.

Member of the public Joe Tomei addressed Council reviewing the agreement between the city and the developer and asked how another purchaser can assume density offsets for the remaining parcels and how do the proposed developments meet the agreement density allocations.

Ms. Stotler responded stating to her knowledge, the DA had a statutory time frame of ten years and doesn't know if there are deliverables remaining on the agreement. The city has not been operating under the DA for a number of years.

Mr. Paladini stated that if there are CC&R's amongst the homeowners and the developer then that is a private civil matter.

Mayor Mengarelli asked for confirmation that the city's authority begins and ends with the zoning land development code; anything outside of that is out of city's purview.

Mr. Paladini confirmed.

Mr. Lamar asked Ms. Stotler if she is sure about the ten-year time frame.

Ms. Stotler responded that there was not a sunset date called out, however per statute DA's without deliverables organically sunset after ten years.

Councilman Blair suggested someone finds out without a doubt if the DA has in fact sunset.

Member of the public Jim Garing addressed Council stating he has read through the DA and noticed that it assigns Prescott Lakes Community Association to maintain landscaping on several major Prescott roadways, and suggested that if the DA is over, the association stop maintaining the landscaping. He compared water usage at an office park with an apartment complex and stated that an apartment complex would use eight times as much water.

Member of the public Russell Lafayette addressed Council with concerns about the quality and the quantity of the water washing into lake from an apartment complex due to impervious surface.

Member of the public Deborah Pernice addressed Council stating that she feels betrayed by lack of concern for accelerating burden imposed by rampant development.

Member of the public John Mapes addressed Council regarding public safety stating that the city cannot dump this many people here without consideration to safety, wants to know if the standard of coverage is that being considered.

Member of the public Bo Borica addressed Council stating the public does not want Prescott to become a haven for developers to fill their pockets. Citizens want respect for the quality of life for everyone.

Member of the public Debra Sedwick addressed Council asking for policies to be changed to include implementing impact fees. Ms. Sedwick asked if Prescott has conflict of interest rules and added that she feels that any Council member or Mayor who has interest in the item should be excluded from the decision as well as the discussion, adding that she is surprised Mayor Mengarelli is in the chambers today given his wife is benefiting from the sale of this property.

Mr. Paladini stated that Prescott does have impact fees, is about \$8,000 for every water meter. In regards to Mayor Mengarelli there was no conflict of interest given Council could not take any action on this item.

Mayor Mengarelli stated his wife did list the property, and that she has the right to earn a living. He takes conflict of interest very seriously and has consulted with the attorney each time there is potential for one and has recused himself when necessary.

Member of the public Molly Hohrein addressed Council stating that she is the listing broker and what she decides to pay Ms. Mengarelli is up to her.

Member of the public Stacy Bonomi addressed Council stating all previous speakers have addressed the questions she had.

Mr. Lamar commented that there will have to be future discussions regarding inclusive vs. exclusive zoning, there seems to be some confusion regarding BG Zoning.

Mayor Mengarelli agreed and added that looking at the DA is also important.

This item was for discussion only, no formal action was taken.

B. Presentation and Overview from Barry Aarons Regarding the 2021 Arizona Legislative Session.

Lobbyist Barry Aarons discussed the latest Arizona Legislative Session where thirty to forty (30-40) bills were being followed closely. The Income Tax Cut Bill was passed, not quite a flat tax, although it could result in 2.5% if reach revenue benchmarks by 2023 tax year. No one will be required to pay more than 4.5 percent because the 3.5 from Proposition 208 to education funding has to be retained. Shared revenue percentage has moved up to 18%. Between the 18%, the economic activity and Wayfair city will be okay in terms of projections of city revenues.

HB 2906 which will prohibit local and state entities from being required to provide critical race theory training in their offices passed. HB 2893 Criminal Justice Budget Reconciliation bill added in Section 41-194.01, an addition referred to as the 1487 revisions; written policies and written rules will fall under that same requirement. Senate Bill 1406 which would have repealed registration and license tags for aircraft failed. The Private Attorney Retention Bill failed after Senate committees.

Mayor Pro Tem Scholl asked about any COVID related bills and a future governors ability to enact executive orders.

Mr. Aarons answered that many of the restrictions relate to education and mask requirements for K-12 and he will supply a copy of that bill. He added that in an emergency such as a pandemic, asking a deliberative body to declare an emergency is likely antithetical to success, and pointed out that the Governor's Executive order is still in effect.

Councilmember Rusing asked if there were any bills related to drought, heat, or on water policy.

Mr. Aarons answered yes, two very important bills were passed. One was a streamlining of the water banking authority, and the other extends the time by 25 years to complete their current remediation measures. Additionally, generous increases in the budget of the Department of Water Resources, to include additional staffing.

Councilman Goode asked if there was a variation to the 1487 Bill that had the ability for any legislator to be able to challenge local laws and ordinances and if that would be repealed. He asked if the annual \$1 million contribution to PSPRS for the Hotshot families is subject to being temporarily suspended due to the skinny budget.

Mr. Aarons stated that 1487 provisions was in HB 2893 and did get passed, is always on our list of items that would like addressed. Mr. Aarons stated that the Hotshot contribution is not subject to a skinny budget.

This item was for discussion only, no formal action was taken.

C. Adoption of Ordinance No. 2021-1761 Setting the FY22 City Property Tax Levy.

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF PRESCOTT, SUBJECT TO TAXATION, A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, LESS THE AMOUNT ESTIMATED TO BE RECEIVED FROM OTHER SOURCES OF REVENUE PROVIDING FUNDS FOR THE GENERAL MUNICIPAL EXPENSES, FOR FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2022

Budget and Finance Director Mark Woodfill presented the FY22 City Property Tax Budget.

Councilmember Rusing asked if this is a tax increase.

Mr. Woodfill responded no, it is actually a 4% reduction in the tax rate.

MOTION BY MAYOR PRO TEM SCHOLL TO ADOPT ORDINANCE NO. 2021-1761; SECONDED BY COUNCILMAN BLAIR: PASSED [5 – 1] [COUNCILMAN GOODE DISSENTING].

D. Approval of City Contract No. 2021-148A1, an Amendment to City Contract No. 2021-148 with Asphalt Paving & Supply, Inc. for the FY21 Pavement Rehabilitation Project in an Amount not to Exceed \$207,000. Funding is Available in the Streets Fund.

City Engineer Eric Stuart provided a presentation to Council regarding an amendment to City Contract No. 2021-148 for additional funding for unseen issues. Have found extensive volumes of clay under Smoke Tree and in some areas more pavement than anticipated had to be removed. Funding is available from the FY21 budgeted street fund.

Councilmember Rusing asked about the aggregate used on this road construction.

Mr. Stuart it has to do with the existing subgrades that were there when this was initially constructed.

MOTION BY MAYOR PRO TEM SCHOLL TO APPROVE CITY CONTRACT NO. 2021-148A1; SECONDED BY COUNCILMAN TENNEY: PASSED [6 – 0].

**** Mayor Mengarelli recused himself from discussion on this item due to a conflict of interest****

E. Adoption of Ordinance No. 2021-1767 Approving City Contract No. 2022-008, an Amended and Restated Lease Agreement with Prescott Frontier Days, Inc. for the Prescott Rodeo Grounds.

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE ENTERING INTO OF THAT CERTAIN PRESCOTT RODEO GROUNDS AMENDED AND RESTATED LEASE AGREEMENT BY AND BETWEEN THE CITY OF PRESCOTT AND PRESCOTT FRONTIER DAYS, INC. FOR THE LEASE OF THE PRESCOTT RODEO GROUNDS AND AUTHORIZING THE MAYOR PRO TEM AND STAFF TO EXECUTE ANY AND ALL DOCUMENTS TO EFFECTUATE SAID PURCHASE.

City Attorney Jon Paladini provided a presentation to Council regarding the amended lease and stated that a provision has been added regarding the expenditure of gross proceeds by Prescott Frontier Days; has to be used for maintenance operation and capital improvements to the Prescott Rodeo Grounds.

Councilman Goode stated that after looking thoroughly at the proposed contract he cannot support it; he is concerned about the impact that the allowed activities will have on the community and the residents nearby as well as Section 12 which relates to alterations and improvements to leased property.

Councilman Goode's general concerns are:

1. The substantial change in operations, revenue and salary increases altering PFD's 501C4 status. Noted that PFD's IRS 990 report is two years in arrears.
2. Mayor Mengarelli representing the city's interest as the landlord and PFD as a tenant at the same time. He feels the Mayor's employment contract terms should be disclosed to better be able to determine how current and future managers holding this position would impact their ability to make these changes to the property, the capital improvements, etc.
3. How to determine when PFD has recovered their capital expenses.
4. The maximum payment is capped at \$150,000 with no CPI or inflation adjustment for 50 years.

Councilman Goode suggests postponing consideration until these issues have been clarified.

Councilmember Rusing commented that she too has a few concerns including: the 50-year term of the lease, the lack of boiler plate language, no adjustment for inflation, no Council approval for the subleases, and update on the rezoning of the property. Feels the contract needs to be tuned up and brought back in 30 days.

Mr. Paladini stated that if the city stays with the current lease which has another 25 years, it owes a master plan and is currently 13 days past the due date. He stated this is a typical ground lease where the tenant typically has the ability to develop the property, the reason for the length of the contract is to recoup the capital improvements that would go in there. Mr. Paladini added that all improvements will be subject to city code, and building code.

Councilmember Rusing asked if the whole property is zoned multi-family.

Community Development Director Bryn Stotler responded that the entire site is high density multi-family and would have to be rezoned for alternate uses.

Member of the public Tom Cantlon addressed Council stating he has spoken with many individuals who are positive about the rodeo, the expansion and a lease if it is a good one.

Member of the public Deb Thalasis addressed Council stating that she would support delaying the decision on the lease, as there have been no projections on changing tax revenues, no estimated or potential costs to the city, and no outreach or collaborations with the neighborhoods. Ms. Thalasis asked why city Park and Recreation has not taken over the enhancements rather than turning it over to a non-profit.

Member of the public Ralph Hess addressed Council stating he believes the lease could be financially advantageous for the city but is concerned about the amendment as it stands. He asked about the notice of intent to lease city property that has not been published and urged Council to require that Mayor Mengarelli disclose his employment contract so as to informed of any ethical and conflict concerns.

Member of the public Howard Mechanic addressed Council stating that PFD should be reticent about making investments on the property given the lease could be cancelled at any time by any Council member. He asked how much of the Rodeo's business receipts from this public asset will be going into Mayor Mengarelli's pocket, and stated his employment contract needs to be released. Mr. Mechanic expressed that the new lease is worse than the old lease because it is throwing in five extra buildings and an extension of 50 years with no cost of living adjustment.

Councilman Tenney asked what the process will look like if this item is tabled.

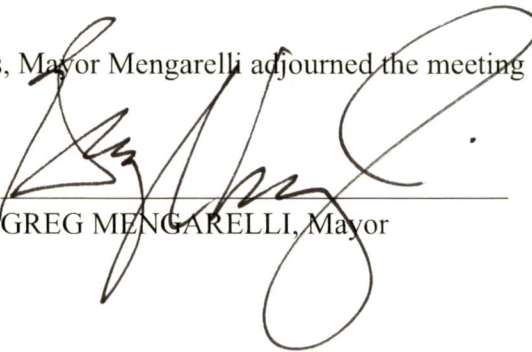
Mr. Paladini replied that he suggests going into Executive Session to get a majority direction then renegotiate the current lease.

MOTION BY COUNCILMAN GOODE TO TABLE ITEM FOR A FUTURE EXECUTIVE SESSION; SECONDED BY COUNCILMEMBER RUSING: PASSED [5 – 0].

8. ADJOURNMENT

Quote: "With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds"
– Abraham Lincoln

There being no further business to discuss, Mayor Mengarelli adjourned the meeting at 5:41 p.m.



GREG MENGARELLI, Mayor

ATTEST:



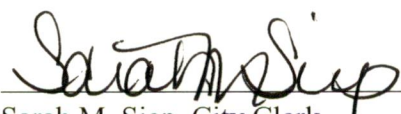
SARAH M. SIEP, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Voting Meeting of the City Council Voting Meeting of the City of Prescott, Arizona held on July 13, 2021. I further certify the meeting was duly called and held and that a quorum was present.

Dated this 21 day of July, 2021.





Sarah M. Siep, City Clerk