



CITY COUNCIL STUDY SESSION MEETING

STUDY SESSION MINUTES

TUESDAY, DECEMBER 14, 2021, 1:00 PM

201 S. Cortez Street
Prescott, AZ 86303
Council Chambers

Phil Goode, Mayor

Cathey Rusing, Mayor Pro Tem

Brandon Montoya, Councilman

Eric Moore, Councilman

Jessica Hall, Councilwoman

Steve Sischka, Councilman

Clark Tenney, Councilman

MINUTES OF THE STUDY SESSION OF THE PRESCOTT CITY COUNCIL STUDY SESSION HELD ON DECEMBER 14, 2021, IN THE 201 S. CORTEZ STREET PRESCOTT, AZ 86303 COUNCIL CHAMBERS.

1. CALL TO ORDER

Mayor Goode called the meeting to order at 1:00 p.m.

2. ROLL CALL

Phil Goode	Mayor
Cathey Rusing	Mayor Pro Tem
Jessica Hall	Councilwoman
Brandon Montoya	Councilman
Eric Moore	Councilman
Steve Sischka	Councilman
Clark Tenney	Councilman

3. DISCUSSION

- A. Discussion and Training Regarding Open Meeting Law, Conflict of Interest, Harrassment, Public Records Request Law and Council-Manager Form of Government.

Mayor Goode requested that all BCC members present complete the sign in sheet in chambers.

Interim City Attorney Matt Podracky provided a presentation and training to Council regarding Open Meeting Law, Conflict of Interest, Harassment, and Public Records. Open meeting law applies to all meetings as defined by ARS 38-431.4

Meetings:

* Gathering in person or via technological devices of a quorum of a public body (City of Prescott Council is 4 people) to discuss, propose, deliberate or take legal action. If you don't have a quorum the meeting must be rescheduled

- * Agendas and notices must say when and where the meeting will take place and be posted in accordance with ARS 38-431.02, minimum of 24 hours' notice
- * Who must comply – all public bodies
- * Executive Session – confidential, legal advice, personnel matters, property, tribal matters, etc.; members of the public body/persons subject to discussion/auditor general may attend
- * Legal advice – given to the public body regarding legal ramifications of the facts and information
- * Don't – poll other members, limit discussions to public meetings, or send emails to each other
- * Do - distribute information to council through staff liaisons, disband meetings when a quorum is not in attendance
- * Circumvention – can't use any device to circumvent the law (serial communications, polling, hub and spokes, daisy chaining)
- * Prohibited Two Way Communication – discussing, deliberation, taking legal action, back and forth among a quorum
- * Prohibited One Way Communication – propose legal action, propose means to put forward for consideration or adoption, cannot propose outside of a noticed meeting
- * Serial Communications – verbal going from one person to the next would violate open meeting law; non verbal (letters or emails)
- * Email – cannot be used to circumvent open meeting law or propose legal action; treated the same as any other form of communication amongst the members, never reply all to emails
- * Staff email – staff may send email to board members (Board packets), staff should not send an opinion from one to another or to what would constitute a quorum
- * Social Media – can present the same issues as email
- * Meeting Etiquette – passing notes, whispering to fellow board members, privately using modern technology, quorum talking to individuals before the meeting
- * Social Events - if a quorum may be present post a notice and include a statement that no business of the public body will be discussed and no action will be taken
- * Communications with Media – does not prohibit members of the body from speaking with the media (ARS 38-431.09(B))
- * Public Rights – may attend, listen, record or video, does not have the right to disrupt the meeting; no right to speak on an item unless it is an official public hearing
- * Penalties – violation carries the potential enforcement and penalty options including nullification of business transacted/civil penalties (city cannot pay for defense or fines)/equitable relief/removal from office: Attorney General is ultimately the decider of the enforcement

Public Records:

- * AZ imposes a presumption in favor of disclosure of public record
- When public disclosure and access is outweighed by confidentiality, privacy or best interest of the state
- * Records that are reasonably necessary to provide an accurate accounting of official activities or other records; other matters include documents held by the public officer in his or her official capacity and in which the public's interest in disclosure outweighs the governmental interest in confidentiality

Conflict of Interest:

- * ARS 38-501 – 511
- * Applicability – all public offices and all public employees

- * Involvement in decisions, substantial and remote interests – officer who has, or relative has, a substantial interest; substantial interest is any pecuniary (financial) or proprietary (property) interest.
- * Three questions – will decision have a positive or negative impact on my interest or that of my relative, do I have a monetary or ownership interest in the matter, is my interest other than one of the designated remote interest
- * Substantial Interest - refrain from voting on or participating in the decision, make the conflict known in the record and leave the table or room
- * Remote Interests – financial and property interests deemed to be so minor as not to trigger the reporting and non-participation requirements, may still vote and participate in discussions
- * Prohibited Acts – gifts/bribes, additional income
- * Opinions by the City Attorney are filed with the City Clerk
- * Remedies – contracts are voidable, affected person may be sued, court may assess attorneys fees/costs
- * Penalties – forfeiture from office, felony or misdemeanor

Harassment:

- * ARS Article 5 Section 5.13 (Sexual Harassment), and 5.14 (Anti-Discrimination, Harassment and Hostile Work Environment)
- * The City has a policy as well – policy can be more broad than the law/can prevent bullying behavior that may be beyond legal harassment
- * What - offensive jokes, slurs, name calling, physical assaults or threats, intimidation, ridicule or mockery, offensive objects or pictures, interference with work performance, rude gestures, etc.
- * Who – men and women, supervisors, coworkers, elected officials, vendors, customers and volunteers
- * Harassment other than sexual - race/color, religion, national origin, age, disability, gender identity and sexual orientation
- * Sexual Harassment – unwelcome advances, requests for favors, or verbal conduct
 - Two types: quid pro quo (this for that) and hostile environment (more common)
- * Social Media - employees are entitled to express opinions on social media, but free speech is not unlimited
- * Retaliation is strictly prohibited
- * When is an employer liable – failing to act reasonably to stop harassment including by non-employees, sexual harassment by a manager or other supervisory employee
- * Elected officials who engage in harassment can be sued personally

City Manager Michael Lamar provided a presentation to Council regarding the Council-Manager form of government. The council creates policy and gives general direction to City Manager who carries the policy direction forward using city staff and resources. City of Prescott operates under this form of government per City Charter Article I, Section 2. Powers and duties of the CM are included in Article III of the Charter.

Positive and productive relationship:

- * Clear policy direction
- * Effective implementation of policy
- * Shared confidence among Council, Manager and staff
- * Respect for varying roles and responsibilities
- * Confidence of the public in local government

Teamwork:

- * Manager supports the Council by – providing thoughtful, well-prepared, and clear recommendations; being responsive to citizen requests forwarded by Council; keeping Council informed with timely information
- * Council supports Manager by – respecting the manager's areas of responsibility and authority (including with whom and how they interact); not jumping to conclusions regarding citizen complaints about staff; not criticizing the manager or staff in public; setting reasonable expectations for goals and projects based on available resources
- * Communication is key

Responsibility of the City Manager:

- * Not carry forth major policy decisions without majority consent of Council
- * Sees that all ordinances are enforced
- * Appoint, transfer or remove all department heads and other employees as necessary
- * Determines at what level policy makers interact with staff
- * Prepare annual budget for Council adoption
- * Keep Council advised at all times of the affairs and needs of the city

Councilman Tenney commented that the Council is lucky to have someone of Mr. Lamar's caliber directing things.

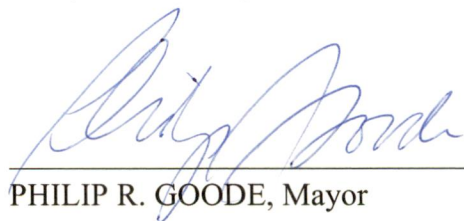
Mayor Goode concurred, and added that the city has had to deal with a lot over the last several years and hope that the cities interest will continue to grow.

Councilman Montoya commented that he has been grateful for Mr. Lamar's work in making the transition easy for the new Council members.

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

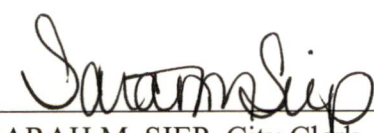
4. ADJOURNMENT

There being no further business to discuss, Mayor Goode adjourned the meeting at 2:09 p.m.



PHILIP R. GOODE, 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 Study Session of the City Council Study Session of the City of Prescott, Arizona held on December 14, 2021. I further certify the meeting was duly called and held and that a quorum was present.

Dated this 23 day of December, 2021.

AFFIX
CITY
SEAL



Sarah M. Siep
Sarah M. Siep, City Clerk