

RESOLUTION NO. 1710

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING THE GENERAL ORDERS OF THE PRESCOTT VALLEY POLICE DEPARTMENT PER TOWN CODE §4-01-040 TO COMPLY WITH S.B. 1070 AS ENACTED AND AMENDED BY THE ARIZONA LEGISLATURE, RELATING TO ENFORCEMENT OF FEDERAL IMMIGRATION LAWS; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on September 12, 2002, the Town Council adopted Ordinance No. 530 formalizing the routine adoption of regulations for the Prescott Valley Police Department by the Police Chief and the Town Manager, without formal Council review, except for certain listed policies considered “high risk” which would continue to be reviewed and adopted by Council resolution; and

WHEREAS, on September 26, 2002, the Council approved Resolution No. 1123 adopting a number of new policies in conjunction with a complete revision of the Police Department policies (which had not substantially changed since 1992), and designated them as the new General Orders; and

WHEREAS, among the new policies adopted by the Council were policies related to “Immigration Law Enforcement” (General Orders 1/390 and 4/264.50) which, on their face, limit local enforcement of federal immigration laws; and

WHEREAS, nearly eight years later, Governor Brewer signed into law S.B. 1070 (subsequently amended) which is intended “to discourage and deter the unlawful entry and presence of aliens” in Arizona by making “attrition through enforcement the public policy of all state and local government agencies”, effective July 29, 2010; and

WHEREAS, Governor Brewer also issued Executive Order 2010-09 requiring law enforcement training to “provide clear guidance to law enforcement officials regarding what constitutes reasonable suspicion,” and to “make clear that an individual’s race, color or national origin alone cannot be grounds for reasonable suspicion to believe any law has been violated”; and

WHEREAS, among other provisions of S.B. 1070 (as amended), Section 2 provides that any legal resident may sue in superior court to challenge any official or agency that adopts or implements a policy that limits or restricts enforcement of federal immigration laws to less than the full extent permitted by federal law (subject to a civil penalty between \$500 and \$5,000 each day the policy remains in effect after filing the suit); and

WHEREAS, a number of lawsuits have been filed against S.B. 1070 (as amended), including a recent suit by the United States to declare the law null and void as a violation of the Supremacy Clause and the Interstate Commerce Clause of the U.S. Constitution, and to enjoin application of the law; and

WHEREAS, during this period of uncertainty regarding S.B. 1070 (as amended), the Council has concluded that it is prudent to repeal the two General Orders which, on their face, limited enforcement of federal immigration laws, in conjunction with training of Town officers planned by the Chief of Police regarding potential application of S.B. 1070 (as amended) based on materials provided by the Arizona Peace Officer Standards and Training (AZPOST) Board; and

WHEREAS, it is understood that Town staff will be vigilant in tracking the status of S.B. 1070 (as amended) in the courts before and after July 29, 2010;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, THAT:

1. The following policies in the Prescott Valley Police Department General Orders be hereby repealed:

~~**1/390. UNDOCUMENTED ALIENS.** It is incumbent upon all employees of this Department to make a personal commitment to equal enforcement of the law and service to the public regardless of alien status. In addition, the Department will provide assistance to persons, groups, etc., who by the nature of the crimes being committed upon them, require individualized service. Police service will be readily available to all persons, including undocumented aliens, to ensure a safe and tranquil environment. Such services will increase the Department's ability to protect and serve the entire community.~~

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~~**4/264.50 ENFORCEMENT OF UNITED STATES IMMIGRATION LAWS.** Officers shall not initiate police action where the objective is to discover the alien status of a person. Officers shall neither arrest nor book persons for violation of Title 8, Section 1325 of the United States Immigration Code (Illegal Entry).~~

2. All other Orders, Sections and Subsections of the Prescott Valley Police General Orders, not herein repealed or amended, shall remain in full force and effect.

3. This Resolution shall be effective after its passage and approval according to law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 22nd day of July, 2010.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney