

PRESCOTT CITY COUNCIL
COUNCIL STUDY SESSION
PRESCOTT, ARIZONA
SEPTEMBER 19, 2006

A STUDY SESSION OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, SEPTEMBER 19, 2006, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

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

Present:

Mayor Simmons
Councilman Bell
Councilman Blair
Councilman Lamerson
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

Absent:

None

□ SUMMARY OF CURRENT OR RECENT EVENTS

I. PRESENTATIONS:

- A. Rick Melendez – Update on potential Sister City relationship with a city in El Salvador.

Mr. Melendez reported that the city that was chosen as a Sister City from El Salvador was Suchitoto which meant “land of flowers and birds”; the Minister of Tourism would be in Prescott on December 7 to meet with the Prescott Chamber of Commerce and Sister City organization and hopefully the City Council; and El Salvador was looking forward to a long relationship with Prescott. He added that he couldn’t wait to get Mayor Simmons, Councilman Roecker and Manager Norwood down there to show them around.

Manager Steve Norwood commented coffee from El Salvador was already being sold at the Farmers Market at Yavapai College and at the Hotel Vendome. Mayor Simmons was presented with a couple of plaques.

II. DISCUSSION ITEMS

A. Approve preparation of contract with Southwest Land and Lake Tours for concessionaire services at Watson Lake Park.

Recreation Services Director Jim McCasland explained Southwest Land and Lake Tours offered a unique tourism experience and requested permission to tour Watson Lake by water.

Brian Hauser, owner, explained they had a six-wheel drive amphibious vehicle developed for troop transport in World War II and was converted to use as a tour vehicle; the vehicle could accommodate up to 25 passengers; many other cities provided tours with these vehicles, including the Wisconsin Dells; Branson, Missouri; Seattle, Washington; Baltimore, Maryland; Boston, Massachusetts; Washington, D.C.; and Austin, Texas. The full tour would take about 1-1/2 hours and 15 minutes of that would be spent on Watson Lake. The vehicle had a good safety record; the vehicles were well maintained and inspected every day.

Mr. McCasland clarified there was no cost to the City.

Councilwoman Suttles remarked the vehicle was very large and questioned how it would mix with other traffic on the narrow streets, if other towns had any problems and what the cost was. Mr. Hauser responded the vehicle was 31 feet long and maneuvered very well; the tours would occur at 9 and 11 A.M. and 1 and 3 P.M. and the price was \$15 for children and \$20 for adults.

Mayor Simmons asked how fast the vehicle could go and Mr. Hauser replied the top speed was 55 mph.

Councilman Lamerson remarked the taxpayers owned the lake and asked if anyone could put a gasoline or diesel engine in the lake and Mr. McCasland replied motors were not allowed on Willow Lake, but were allowed on Watson Lake.

Mr. Hauser clarified the craft would travel at 4-6 mph on the lake.

Councilman Lamerson asked if the craft would disturb the birds and Mr. Hauser said he had been out there when there were motorboats and it didn't seem to disrupt the birds.

Councilman Luzius asked how wide the vehicle was (8 feet) and how much it weighed (14,000 lbs.) and if the boat ramp could handle that much weight. Mr. McCasland replied the boat ramp was made of concrete and could handle the weight.

Councilman Luzius concluded saying he had problems with this vehicle running on city streets, such as Mount Vernon Avenue, and didn't think it was a good idea.

Councilman Bell remarked he was in favor of tourism, had spent some time in Branson and was familiar with the DUKW; but he had trouble imagining this duck in a small pond like Watson Lake and he had trouble supporting the idea.

Mayor Simmons asked if the big tires distributed the weight and Mr. McCasland responded he didn't know about displacement of weight. Mayor Simmons concluded today was the Study Session and a vote would be taken next week and the decision would be made to allow it or not, but it looked like a good project.

B. Approve contract with Logan Simpson Design, Inc. in an amount not to exceed \$170,000.00 for the preparation of the City of Prescott Parks and Recreation Master Plan.

Recreation Services Director Jim McCasland explained the current Parks Master Plan was adopted in 1987 and the Council made a new updated plan a priority for this year; staff advertised for Statements of Qualifications and selected and interviewed three firms and chose Logan Simpson Design, Inc. of Tempe, AZ, to prepare the new plan; the consultant would put in between 1,700 and 1,800 hours which would include at least 11 public meetings and workshops to take public and special interest group input; conduct a needs assessment survey; look at the existing park and recreation facilities; benchmark the current parks and recreation system; develop facility standards; prepare conceptual plan alternatives; prepare funding and partnership options; prepare a 5-year Capital Improvement Project schedule; and prepare a draft and final master plan document; the consultant would work with the Planning and Zoning Commission and City Council and the Parks, Recreation and Library Advisory Committee; and staff was recommending award of a contract to Logan Simpson Design in an amount not to exceed \$170,000.00.

Councilman Blair commented the staff report didn't include a breakdown of bids of the three bidders and Mr. McCasland responded it was a professional service and from the five Statements of Qualifications received, three firms were chosen to interview and the top firm was chosen, then staff could negotiate the services and price.

Councilman Blair remarked it was wrong to expect a community to select a firm based on experience, then negotiate the contract and price and a

letter should be sent to the League of Cities to try to get the law changed. Mayor Simmons responded that had been tried but the lobbyists were successful in keeping the law in place.

Councilman Luzius asked how much it cost to prepare the General Plan, and Mr. McCasland replied that was done in house and there would be some parts of the plan that city staff could do but the department had too many things to do to take the time necessary to prepare a document of this scope.

Manager Steve Norwood clarified \$140,000 of the budgeted amount of \$170,000 was from impact fees and the remainder was from the General Fund.

Councilman Lamerson pointed out staff could prepare a General Plan for the community in-house, and had had 20 years to come up with a new parks plan and he didn't like to have outside firms from other cities prepare Prescott plans. Councilwoman Suttles added she didn't like outside groups coming in and telling them what they needed; Prescott had a department, a department head, and a committee and thought they could come up with a plan.

Mr. McCasland explained no local firms put in a Statement of Qualifications; the consultant would first have to gather information from public meetings and show the information to the city as to what the citizens want; there was a lot of work involved and would take approximately 10 months to complete; Diane Simpson Colebank was in attendance and could answer Council questions.

Councilwoman Suttles asked if it was true if the plan wasn't done the city couldn't apply for grants and Mr. McCasland clarified the city could apply, but would be downgraded during the process for not having a plan in place.

Councilwoman Suttles asked if one of the firms wasn't chosen what would happen and Mr. McCasland said the effort would end and staff needed Council direction on what to do about an updated master plan; there were a lot of ideas out in the community as to what the community needed and wanted, such as turf parks, an aquatic center, new ball parks, open space, trails, lake activities, etc.

Councilman Lamerson commented \$170,000 sounded like a lot of money to spend on a study when Iron Springs Road was going to cost \$17 million to improve and he didn't see spending a lot of money on recreation when infrastructure was needed and maybe Council should go in another direction; Manager Steve Norwood reiterated the \$140,000 was from

recreation impact fees and could not be used on streets and some cash money was involved because the plan could not all be attributed to new growth.

Councilman Roecker noted the city hired consultants for everything and asked Mr. McCasland if his department had the time and expertise to do this project and Mr. McCasland responded they had neither the time nor expertise to do a project of this size.

Diane Simpson Colebank was asked to explain the project and she said the City of Prescott was their very first client 16 years ago and they had worked on the previous study and on the design of improvements to Willow and Watson Lakes; this would be a community plan—not what her company thought Prescott should have; there would be a lot of input from the public, citizens committees, stakeholders, special interest groups, etc. and the first thing to be done was a survey.

Councilman Blair asked what a stakeholder was and what benchmarking meant and Ms. Colebank replied it was anyone who felt they had an interest in the process, such as the Little League groups, soccer groups, the equestrian community, the trails groups, and bicycle groups just to name a few and to benchmark meant to look 5 to 10 years in the future and what the future needs might be; Phase I would be gathering input to understand the citizens' vision and what perceived needs were; Phase II would be to come up with three alternatives to present to the community; then the Preliminary Master Plan would be prepared; then look at the Capital Improvement Plan and how to fund it because you didn't want to have a plan that couldn't be implemented; the implementation would be accomplished over a 5 to 10 year period, just as the last plan was; and would be funded through grants and other funding mechanisms.

Councilman Blair remarked this was not just a parks master plan, but a full recreational plan and he asked to see the scope of work Logan Simpson Design would provide.

Mr. McCasland clarified there was a misconception when special interest groups are mentioned; the community was made up of many special interest groups - fishing, trails, boating, Little League, soccer, aquatics, any group interested in a specific activity was a special interest group; citizens would be able to participate in coming up with what they wanted to build and have here in 10 years; it took 9 months just to plan for the lakes; and the plan had to mesh with all the different city plans.

Speakers:

Jack Wilson, 1514 Eagle Ridge Road – was in favor of proceeding with the development of the master plan; \$170,000 was a bargain with \$140,000 from impact fees and urged Council to go forward with the project.

Ethan Edwards, CEO of Yavapai County Contractors Association – was using impact fees appropriate as this was not 100% growth related and Budget/Finance Director Mark Woodfill responded it was an appropriate use of impact fees to study where future parks were needed due to a larger population.

Jim Lawrence, 345 High Chaparral Loop – The Open Space Acquisition Committee wanted to assist in the study as they were a stakeholder.

Councilwoman Suttles asked if open space would have anything to do with the study and Mr. McCasland replied it was one of the components and water conservation would also be involved and any recreational user group.

Mayor Simmons clarified the committee input would not be so much in their role in acquiring open space but what could be blended into the open space owned by the city.

C. Award of bid for dry chlorine tablets to Hill Brothers Chemical Company in the estimated amount of \$60,192.00, including taxes and shipping.

Public Works Director Craig McConnell explained staff was recommending approval of a three year contract with Hill Brothers Chemical Company of Phoenix with the provision to extend for two additional one year periods, for the purchase of dry chlorine tablets in the amount of \$60,192.00, including tax and shipping, to be used for the disinfection of potable water.

Councilman Roecker asked why there were multiple shipments in the odd amount of 1,320 pounds, and Mr. McConnell replied one pallet held 24 55-pound pails of tablets and the product could not be stored for any extended period of time; that 1,700 pounds were used each month.

- D. Adoption of Ordinance No. 4555 – Annexation of 25.75 acres located on the North side of Ruger Road adjacent to the Prescott Airport, owned by Ty Myers, proposed for airport industrial development (ANX06-002).**

Community Development Director Tom Guice explained after adoption of the ordinance it was anticipated the developers would request a rezoning from Rural Estate 2 acre minimum to Industrial Light zoning and would submit a preliminary plat for a commercial subdivision and infrastructure plans; then Final Plat.

Councilman Bell asked if the access was approved by the Fire Department and Mr. Guice responded they were okay with it.

Councilwoman Suttles asked about the other property abutting this piece and Ty Myers, 3605 Crossings Drive, responded the piece to the right was already in the City limits and was part of the entire purchase.

- E. Approval of Special Use Permit for a Telecommunications Site for Alamosa PCS Wireless, for construction of a Mono Pole, 47 feet in height with associated equipment compound, at the rear of property located at 1052 Willow Creek Road (West of Goodyear Tire Dealership), zoned Business General (SUP06-002).**

Community Development Director Tom Guice explained the request was for a Special Use Permit to allow a telecommunications site behind the Goodyear Tire dealership on Willow Creek Road; the site would consist of a single 47 foot monopole and an equipment compound (25'x15') and would have minimal visual impact on the residences and businesses and no comments were received following public notification; a representative from Alamosa was present if Council had any questions.

Mayor Simmons announced he did not have any financial involvement and this project would not affect him and therefore he did not have a conflict of interest.

F. Estrella Hills:

1. Approval of Preliminary Plat for Estrella Hills, a single-family subdivision containing 10 lots on 13 acres, located in the area of Green Lane and Meadowridge, zoned SF-35 (SP05-008)
2. Approval of Water Service Agreement with Chris Browning for 3.5 acre feet for Estrella Hills subdivision.

Community Development Director Tom Guice explained Estrella Hills was requesting preliminary plat approval and approval of a water service agreement and presented the following information:

- the subdivision consisted of 10 lots on 13 acres
- it was located north and west of the intersection of Green Lane and Meadowridge Road
- access would be off Estrella Road via a public street
- the street would be 28 feet wide, with curb, gutter and sidewalk, within a 50 foot right-of-way
- the zoning was Single Family-35
- some of the area was on septic and the subdivision would extend sewer lines.

Councilman Blair said he had lived in that area for 15 years and asked if the corner was going to be improved; this was a short cut to Granite Mountain Middle School and asked how far the road was going to be improved and if traffic control methods were going to be put in on the downhill slope of the road. Mr. Guice replied the portion of the street that fronts the subdivision and the streets within the subdivision would be paved and any traffic mitigation would have to go to the Transportation Coordinating Committee to review.

Councilman Blair concluded saying once the road was improved there would be more traffic and a traffic mitigation plan was needed because people traveled too fast along there.

Mr. Guice mentioned the Final Plat would come to Council on October 3 and 10 and that could be a condition of approval of the final plat.

Councilman Roecker asked if the one way in and one way out was approved by the Fire Department and Mr. Guice said it was acceptable.

Councilman Blair asked to have a traffic counter put on the road to identify the amount of traffic and to have those numbers before the Final Plat came to Council for approval.

Councilman Luzius remarked some of the lots had been moved down along the corridor and asked if the improvements on Estrella Road use the complete right-of-way. Mr. Guice said the road would be a full paving width of 28 feet with curb and gutter on both sides.

Councilman Luzius asked if the current water allotment went away and a new allotment given and Mr. Guice said that was correct.

Rick Nelson, 985 Custer Lane, Lot 8, appreciated the road being moved as it would have been within 15 feet of his patio and asked if the road was going to be paved to the corner, and Mr. Guice replied it would be paved the length of the frontage of the property which was not quite to the corner.

G. Approval of Final Plat of Timber Creek Villas Townhomes, Phase 2 PAD, 22 lots on 6.94 acres located on Hassayampa Lane South of its intersection with Thumb Butte Road, zoned SF-9 (FP06-014)

Community Development Director Tom Guice explained the Preliminary Plat was approved last year for 30 units; Phase 1 included 8 units, and Phase 2 was 22 units; the project complies with Subdivision Regulations; there was a buffer landscape plan bordering the residential area; a Condition of Approval was to secure a utility easement for gravity sewer line between units 12 and 13 and if not able to get the easement, put in a sewage lift station in the subdivision and the decision would take place before the recording of the Final Plat.

Councilman Luzius asked if the east side of the property was a floodplain or a creek and Mr. Guice said the creek was in a southwest/northeasterly direction and it was probably a drainage area; soil erosion mitigation would be required.

Councilman Blair asked who owned the property because the staff report didn't mention it, and Mr. Guice responded Guy Naus of Naus Construction was one of the developers. Phil Wiens of Naus Construction was present.

H. Adoption of Ordinance No. 4556 – Authorizing a Lease Agreement with WFI for cell site placement in the Parking Garage on Granite Street.

Administrative Services Director Mic Fenech this item was to consider a lease agreement with WFI (Sprint Nextel) for a wireless cell site; a summary of the lease was provided in the staff report. Mr. Fenech provided the following information:

- Bill Otwell of Otwell and Associates looked at the plans to make sure the cell site matched the finish of the garage;
- three parking spaces would be utilized so there were now only 500 parking spaces in the parking garage;
- the term of the lease was 5 years with 5 five-year extensions;
- a \$10,000 fee would be paid upfront to offset city costs with site preparation, construction services, and design review by Otwell;

- a location payment fee of \$63,000 would be paid upfront to offset lost revenue of the three parking spaces;
- rent would begin at \$21,012.00 per annum and increase annually by 5% over the term of the lease;
- the total lease payments over 30 years would be \$1,396,017.12;
- there would be 4 antennas placed on the exterior of the building, 4 on the south side and 4 on the north side of the building.

Mike Gallagher was present from Nextel.

Council congratulated staff on negotiating a good contract and said they would like to see more unobtrusive cell sites in the city.

Councilman Luzius asked where the money would go and Manager Norwood replied the annual fees went in to the General Fund and the \$53,000 went into the Garage Fund.

Councilman Luzius added he would like to see some of the money go to security because there were problems with the theft of fire extinguishers, people urinating in corners, etc., and Mr. Norwood responded staff was addressing the vandalism problems.

I. Adoption of Ordinance No. 4557 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona adopting new impact fees.

Budget/Finance Director Mark Woodfill explained a study of city service levels was done in 2005; the Council adopted a Notice of Intent to increase impact fees on June 13, 2006 and set a public hearing for August 29; the adoption of an ordinance could take place September 26; the impact fees being considered were police and fire to maximum recommended levels and Library, Parks, Recreation, and Public Buildings to be raised 25%; police would increase from \$84 to \$589 and fire would increase from \$167 to \$525; the recommended increases would raise the total of the impact fees from the current amount of \$2,365 to \$3,638, a 54% increase. The Streets impact fee was not recommended for increase at this time and would wait until the Growth Strategy Plan was completed. An inflation escalator was proposed based on the change in construction costs, with the first escalation imposed on January 1, 2007 and each succeeding January 1.

Mayor Simmons commented Manager Norwood was recommending increasing just police and fire impact fees and Mr. Norwood added “and modest increases for the others of 25%” and Council had the authority and discretion to do what they wanted.

Mayor Simmons supported an increase in Police and Fire and leave the others alone.

Councilman Lamerson said he didn't like impact fees at all and the City should get rid of them; they were contradictive to the City's ability to do what necessary; they want new growth to pay for itself but they put pressure on existing infrastructure and gave as an example, Wal-Mart on Iron Springs Road, which was new growth but they didn't pay any impact fees, yet the City was looking at spending \$17 to \$18 million to fix a piece of infrastructure (street) that would bring customers; people living out of the Prescott limits didn't pay impact fees but they still had an impact on the city.

Councilwoman Suttles remarked the City wanted new growth and impact fees helped pay for that growth, so the City needed to be careful and not price themselves out of the market; a 601% increase for police and 214% increase for fire was high but the City had been behind and police and fire were very low to begin with.

Councilman Luzius asked if the proposed amounts were justified and Mr. Woodfill replied they were justified by the report and it was only for residential growth, not commercial growth.

Councilman Luzius advocated going to full maximum on everything for a total fee of \$6,015.

Councilman Blair wanted to increase the Library impact fee 25% increase police, fire and public building to the maximum amount, and leave parks, recreation and streets where they currently were.

Mayor Simmons didn't agree with his math and discussion went back and forth between them.

Councilman Bell asked Economic Development Director Jane Bristol if interested businesses ask what Prescott's impact fees were and Ms. Bristol replied yes, along with what sales and property taxes were, because that was part of their consideration in locating here; Prescott Valley put a two-year moratorium on business and commercial impact fees; Prescott had never charged business and commercial impact fees; fire calls were generated by commercial businesses but residential customers paid all the impact fees.

Mr. Woodfill clarified half of the fire calls were from businesses but those costs were not passed on to residential property owners.

Councilman Lamerson commented the City didn't have a property tax, that was collected by Yavapai County and asked where the taxes went and Mr. Woodfill replied the City got a portion, but the county, school district, college and flood control district received a bigger share of the taxes collected.

Councilman Lamerson said the impact fee was a one-time fee, but couldn't be used to upgrade existing infrastructure even though the new growth impacted and damaged the existing infrastructure, for instance impact fees could not be used to rebuild Iron Springs Road and asked if he was correct. Mr. Woodfill acknowledged that was correct but there could be some justification that new development required a widening of a roadway, such as Willow Creek Road that was increased from two to four or five lanes and impact fees could be used in proportion to the costs of adding a lane or two. Mr. Lamerson said he could not support the increase in impact fees.

Councilman Roecker asked Ms. Bristol what the reaction was when talking with commercial people when they were told there were no impact fees for commercial or businesses and Ms. Bristol responded they needed to know all the costs they were facing, such as buy-in fees, off-site improvement costs, building permits, etc. and impact fees was just one of the things they looked at when choosing a community and they asked what the other communities in the area charged as well.

Mr. Woodfill noted for commercial property such as a shopping center, Chino Valley charged \$1,180 per 1,000 square foot; Prescott was proposing \$2,246 per 1,000 square feet; Peoria charged \$15,767 per square foot. The last page of the January 2006 study was a comparison of other cities and the type of structure.

Speakers:

Howard Mechanic, 309 Bloom Place, made the following points:

- Need to cooperate with other cities, not compete.
- Shouldn't give away tax revenues.
- General Plan says growth will pay full cost of growth. If do less, not following General Plan.
- Two alternatives, cut back on services or put it on sales tax. Fixed income residents would cover the cost of a fire station caused by new development.
- A house in Prescott cost \$200,000 five years ago and the impact fees were about 5%. Now the average house was \$400,000 and the impact fees should be increased accordingly.
- Some Councilmembers were supportive of raising impact fees; property and sales tax increases had been brought up in other

meetings and Council needed to decide where the money was going to come from to keep up with new growth.

Councilman Blair made the point that people who build new houses pay impact fees, but people moving into already built houses did not pay impact fees; also, any homes built prior to 1995 did not pay impact fees, yet any new facilities, such as a new fire station, was for the use of new residents and existing residents and it couldn't all be focused on new growth.

Candace McNulty, 221 S. Marina Street, asked if people moved in to an existing house and others moved out of that house how it didn't balance out and there wouldn't be an impact; she understood with a new home it was a new demand on services.

Ethan Edwards, 126 N. Marina Street, presented the following information:

- The city relied heavily on the revenues from transaction privilege taxes.
- He suggested the city identify growth related items the impact fees would be used for; prepare a capital growth plan and raise the impact fees for a specific project, such as a fire station or a police station.
- The City needed to understand that for everyone that decided not to build in Prescott, the City was looking at losing \$18,000 on a 3,000 sf home (cost of permits, inspection fees, all city fees) and the transaction privilege taxes on building materials as well.
- Growth did pay for growth through the transaction privilege tax; it had worked in the past and once the taxes weren't coming in the city would be in trouble.

It was clarified the State did not allow development impact fees until 1992 when they saw the effects of rapid growth and the impact fees paid for the facilities, but did not pay for services.

Attorney Kidd added there needed to be a reasonable relationship to a facility and new development; it had to be a direct benefit to new growth; the City couldn't go back and charge existing homes impact fees and the use of the fees was limited.

Mr. Woodfill clarified State law allowed the impact fees to be used in one of three ways - the capital plan approach; incremental approach or the buy-in approach.

Additional Council remarks:

Councilwoman Suttles – over \$18,000 by the time all development fees and permits were issued, including water and sewer and how much was too much; it was getting harder and harder to build here.

Councilman Lamerson asked why the City didn't get a bigger portion of property taxes and Mr. Woodfill responded the State limited the amount.

Mayor Simmons asked how shared revenue came about and Mr. Woodfill replied the State agreed not to implement a State property tax and sales tax.

Jim Lawrence, 345 High Chaparral Loop –

- Impact fees could build a facility but did not cover any operating or maintenance costs, so personnel, vehicles, etc. were in addition.
- Decide if existing residents pay, or new growth. New buildings were needed to handle the additional growth. If the City was going to provide services, they must decide who was going to pay for it.

Councilman Roecker asked Chamber of Commerce CEO David Maurer what the Chambers position was regarding increasing impact fees.

Mr. Maurer responded they supported police and fire at the proposed increases without the escalator and they opposed commercial impact fees as well as any other increases at this time.

Mayor Simmons proposed police and fire impact fees be changed to the recommended levels and let the rest of the fees wait.

Councilman Bell asked how long before the issue came back to Council and Mr. Woodfill responded the Parks Master Plan and Growth Strategy Plan were part of this year's budget and impact fees for Parks, Recreation, Library and Streets would come back in a couple years to include projects from those specific plans.

Councilman Lamerson asked if police cars and fire trucks were included and Mr. Woodfill replied impact fees could be used to buy a fire truck for a new fire station, but could not pay to replace a truck.

Ethan Edwards remarked he was against impact fees, feeling the transaction privilege tax took care of that; but he realized there was a gap and he realized emergency services were necessary and would not oppose police and fire impact fee increases.

Attorney Kidd said he would draft two ordinances for next week, one proposed with only police and fire impact fees, and the other with

recommended increases for Police and Fire and 25% for Library, Parks, Recreation, and Public Buildings.

Councilman Blair inquired about the option of having a user fee, for those people from outside the City limits who used City facilities, such as the library; maybe there should be a fee to use that facility and everyone would have a card that identified them as a city resident or a county resident.

J. Notice of Public Hearing (September 26) of a liquor license application from John Stephen Protesto, agent for Spencer Stephens, LLC, for the person transfer of a Series 6, Bar, license for Scrappy's Sidestreet Bar and Grill located at 1011 Commerce Drive, Suite A and B.

Clerk Elizabeth Burke reported the Public Hearing would be held next week, September 26, for the person transfer of a Series 6 Bar license for Scrappy's Sidestreet Bar and Grill. Property was posted and received no comment.

K. Adoption of Resolution No. 3778 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, in support of the application of equal standards for water quality including arsenic standards to exempt wells and revised criteria pertaining to exempt wells in the Prescott AMA accordingly.

Attorney Gary Kidd explained this was a proposed ordinance regarding exempt wells and if adopted the resolution would be sent to the Arizona Department of Water Resources, state legislative representatives, and to Congressional representatives to urge them to consider adopting water policies pertaining to exempt wells, as well as rules revisions and legislation designed to assist municipal water providers.

Councilman Lamerson hoped this would open a dialog with the Legislature and he supported the resolution as water providers and exempt well owners were treated as different classes of people.

Councilwoman Suttles remarked this was only the tip of the iceberg and it needed to be discussed in length; it was a difficult issue to deal with and the City of Prescott was heavily impacted by the current rules.

Speakers -

John Zambrano, 2910 Crestview Drive, said that the resolution would apply to all water users and would be a large regulatory burden on the State and would never happen; exempt well owners were not getting away

with anything if their water wasn't up to standards; but the Environmental Protection Agency wasn't going to change the water quality standards.

Councilman Lamerson maintained the resolution would not be a futile effort; the State allowed property owners to drill an exempt well because the charge of the hookup to the City of Prescott water supply was more than the cost of drilling a well and yet the City was under a mandate to reach safe yield and that was a conflict in policies that he wanted to have addressed.

Dar Rosito, 2155 Chickadee Creek, Mullen Way area – Appreciated the opportunity to comment; was not in favor of going in this direction; he was willing to pay to have water and sewer and that was the reason they annexed into the city; but it was disgraceful how they were treated; cost estimates kept changing, going higher and higher and there was a real lack of performance on the city's part. He said they were deceived on the project and now the Council had the potential of cutting him off from the only water he had; he didn't need the government to tell him what was right; he would end up having to haul in water and the city didn't have the right to deprive him of the use of his well. He asked if that wouldn't be a taking of his property.

Councilman Lamerson asked Attorney Kidd if this resolution applied to existing wells and Mr. Kidd replied no, it was the proliferation of new wells.

Mr. Rosito asked if the resolution stated that existing wells would be exempt and that it applied only to new wells and Attorney Kidd read a portion of the proposed Resolution No. 3778:

“Whereas, the exemption of such wells from water quality standards poses an unfair and unequal treatment among classes of users and if the EPA regulations are intended for public safety due to perceived health risks, allows these risks to be assumed by persons creating exempt wells in the Prescott AMA.”

Mr. Rosito apologized because he did not have the complete resolution, only the title that was on the agenda.

Yvonne Dorman, 1335 Mullen Way – she didn't have the attitude that she had hers and didn't care what happened to other people and she felt the same way Mr. Rosito did; it didn't seem right for Big Brother to come into her house. She asked what would happen if her well didn't meet the standards or stopped producing enough water—where she would get water. She asked what would happen if the well began to produce enough water again or if she had to drill another well because hers gave out—if she would have to follow the new rules.

It was clarified if she had to drill another well she could do it because there wouldn't be any more water used than before.

Ms. Dorman asked how the public could get the reports and papers from the packet they needed to look at when there was an item of interest, how it was put on the agenda and why it didn't have a name with it on who created it. Mayor Simmons explained most agenda items were staff driven and the staff got together to discuss the items to be placed on the agenda; then the manager, clerk, attorney and Mayor got together to review the items and the agenda was put together, copied and distributed. He said that a copy of the packet was available in the lobby several days before the meeting for the public.

Councilman Lamerson made the following points:

- policies of the State were conflicting;
- current standards for arsenic and other water quality standards which apply to municipalities do not apply to exempt wells;
- the City had to pay for arsenic removal but exempt well owners didn't;
- the AMA had to reach safe yield but exempt well owners could pump as much water as they wanted to;
- there was no accountability of safe yield or any arsenic responsibility;
- exempt wells in the AMA increased by 30%;
- ADWR qualified one of their decisions that due to high impact fees and the cost of hooking into the city water lines, a resident could drill an exempt well instead.

Councilman Lamerson wanted the proliferation of exempt wells stopped and wanted to see the State change the law in allowing residents to drill an exempt well instead of tying into the city system; ADWR needed to clarify their policies regarding exempt well owners and assured water providers and municipalities; the City was trying to reach safe yield and treat arsenic and the State policies did not support that.

Ms. Tucker said that a new law went into effect on January 1 that prohibited exempt wells from being drilled within 100 feet of a water provider's system, unless it cost more to hook up to the water provider's system, so it doesn't help in their AMA because the City's impact fees make it more costly to hook up to the system rather than drill their own well.

Howard Mechanic, 309 Bloom Place – He said that Ms. Dorman asked where she could get the full resolution and he noted that there was a book

in the hallway that contained all the staff reports and copies of the ordinances and resolutions, or she could get them from the City Clerk. He appreciated the City working toward safe yield and agreed exempt wells were a large part of the problem; he suggested getting all the cities and towns in the AMA together and come up with a solution and work on it, not to do it separately; everyone needed to share the responsibility of reaching safe yield in the AMA and a fee could be paid to cover pumping of exempt wells; this proposal misdirected the lack of progress in reaching safe yield and didn't have a chance of being passed by the EPA, State or County; it wasn't a serious proposal. He said that Mayor Simmons was on the Safe Yield Subcommittee of the Upper Verde group and they had looked at ways to deal with the safe yield problem and this wasn't one of them; they couldn't apply the same standards required of water providers to exempt well owners; a report from the Subcommittee would come out at the end of the year and should be supported.

Mr. Mechanic remarked he didn't understand asking for credits and Mr. Kidd responded that applied to Item L, and explained the number of exempt wells in the Prescott AMA increased 30% between 1990 and 2005 and these wells were drawing water from the aquifer, the City was supposed to bring the AMA back into safe yield, but there was no control over how much water was pumped from the wells or the number of wells allowed to be drilled in the AMA; the resolution proposed the concept of establishing a fee for future exempt wells to be used to offset the anticipated draft on the aquifer from such wells, and a credit to municipal water providers to account for the effect of these wells on the aquifer.

Mr. Mechanic asked what the credits were supposed to cover and it seemed to be confusing the issue and there shouldn't be a credit given to the city because someone drilled an exempt well; he proposed that they come up with one solution and have everyone agree on it and sent it to the Legislature. Attorney Kidd clarified the credit would go into the safe yield calculation and could be part of the recharge.

Bernard J. Sheridan, 1355 Wickwood Lane – he had a 447 foot well and pumped 6 gallons per minute, was checked each year and it met and exceeded city standards and he asked if this resolution would affect his well tomorrow and Mr. Kidd replied “no”.

Candace McNulty, 221 S. Marina Street – she was puzzled about the safe yield credits and asked if they were money or water credits, and if the AMA was required to devote water to safe yield if the city was looking to subtract something because exempt wells were taking water that was unaccountable. Attorney Kidd explained it was a policy issue and it could be money or water credits.

Councilman Luzius said the City was their own worst enemy; they allowed water to be used for dust abatement on construction projects and used 71 million gallons this year, just to put on the ground for compaction; safe yield would never happen if they continued to allow water to be used and first they had to look at their own practices.

Councilwoman Suttles asked Jim Holt, Water Ranch Project Manager, who previously worked for ADWR, what he thought about the resolution and whether it would be beneficial to the City. Mr. Holt, after giving a brief history of the situation in the Prescott AMA, indicated that although he didn't know what impact it would have, he believed that sharing their concerns and frustration would be extremely valuable.

Councilman Roecker commended Councilman Lamerson for bringing the issue up and if arsenic was a problem it should apply at the exempt well level also and he supported both issues.

Dar Risoto commented the Resolution should clarify the subject was new or future exempt wells.

- L. Adoption of Resolution No. 3779 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, in support of the application of revised criteria pertaining to exempt wells in the Prescott AMA and regulating the proliferation of exempt wells in the AMA area.**

- M. Adoption of Resolution No. 3780 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into an Intergovernmental Agreement with the State of Arizona, Division of Emergency Management (ADEM) and Pima County in order for the City of Prescott to be eligible to receive pass-through grant funds from the United State Department of Homeland Security.**

Police Chief Randy Oaks explained Council approved on September 12 the completion of the application process to the Arizona Office of Homeland Security to propose funding for three project – 1) \$94,500 for a multi-agency tactical radio system; 2) \$7,323 for emergency management satellite telephones; and, 3) \$42,143 for radio frequency consolidation; an Intergovernmental Agreement with the State of Arizona, Division of Emergency Management and Pima County was required as part of the process; Pima County was designated as the recipient of grant funds within the State of Arizona and would be a pass-through agency; the grant was in the amount of \$143,966; and the City would agree to comply with all the 2006 Homeland Security Grant Program guidelines.

- N. Adoption of Ordinance No. 4558 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of easements and right-of-way from the Prescott Unified School District for the Ruth Street Improvement Project and authorizing the Mayor and staff to execute any and all documents to effectuate said purchase.**

Engineering Services Director Nietupski explained as part of the reconstruction of Ruth Street improvements at the intersection of Whetstine Avenue, Ruth Street and Demerse Avenue acquisition was required of two triangular parcels of property for public right-of-way from the Prescott Unified School District; the Agreement for Sale provided compensation in the amount of \$7,910.00 and limited drainage, paving, driveway, and fencing improvements to accommodate school bus access from Whetstine Avenue to the high school; the School District approved the sale of the parcels at their meeting of August 22; the funding was from the 1-cent sale tax.

- O. Adoption of Ordinance No. 4559 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, disclaiming any title interest in real property known as Yavapai County Parcel No. 109-08-088 and authorizing the Mayor and staff to execute all necessary documents to disclaim such interest.**

Attorney Gary Kidd explained Frank Castro filed action on a lot next to his lot; the County and City were listed on the title report as having a possible interest; by disclaiming that interest the City could stay out of the lawsuit.

- P. Adoption of Ordinance No. 4560 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the sale of property located northeast of Lot 2 in the Golf Links Subdivision.**

Golf Manager Paul Parker explained the property was adjacent to Lot 2 and next to the cart path and was between a fence and the path; one proposal was submitted by the property owner of Lot 2, Andrew Ozols, in the amount of \$2,500.00; the fence would be moved to the edge of the concrete cart path and would have a wall on each side.

Councilman Blair asked why this was being sold, and Mr. Parker said it would eliminate the maintenance of the property; there was no irrigation in the area and was a challenge to maintain and staff would no longer have to clean up the area.

Q. Approval of reimbursement to Prescott Chamber of Commerce for Christmas lighting in the amount of \$30,000.00.

Economic Development Director Jane Bristol explained the Chamber of Commerce was working with the Prescott Downtown Partnership to enhance the Christmas Courthouse lighting display; the City had budgeted \$30,000.00 from Bed Tax funds toward this project and the money was needed in advance.

David Maurer, CEO of the Chamber of Commerce, added work began today on putting up the lights in the trees around the Courthouse, and they were hoping to double the number of trees to be lit and hoped to light at least 25 trees.

R. Approval of Minutes of the Prescott City Council Regular Voting Meeting of September 12, 2006.

S. Selection of items to be placed on the Consent Agenda for the Regular Voting Meeting of September 26, 2006.

Items. C, D, E, F, G, H, M, N, O, P, Q, and (R).

III. ADJOURNMENT

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 6:15 P.M.

ROWLE P. SIMMONS, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk