

PRESCOTT CITY COUNCIL
COUNCIL STUDY SESSION
PRESCOTT, ARIZONA
MAY 15, 2007

A STUDY SESSION OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MAY 15, 2007, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:02 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

Mr. Norwood introduced a few new employees of the City; Jim Ciaffoni, Deputy Public Works Director, from Nevada City, California, and Eric Kreiber, Senior Fire Inspector, from Fountain Hills.

Mr. Norwood said that the City receives phone calls daily asking where phone books can be disposed of, and he wanted to let the public know that between now and June 1, a dumpster has been provided at Pioneer Park for disposal purposes.

I. PROCLAMATIONS

A. May 13 – 19, 2007 – *National Police Week*

Mayor Simmons read the proclamation proclaiming May 13-19, 2007 as National Police Week and presented it to Police Chief Randy Oaks and Deputy Police Chief Dave Benner.

II. PRESENTATION

A. Introduction of new Police Department employees

Chief Oaks introduced new employees of the department: Parking Control Officer Penny Khalifeh, Officers Jeremy Brazell, Daniel Bardon, Peter

Mayer, Kristopher Williams, Marc Williams, William Wolf, Matthew Medina, Ezekiel Chamblain, Quartermaster Bruce Moncher, and Ken Morley who was promoted from Sergeant to Lieutenant.

III. DISCUSSION ITEMS

- A. Adoption of Resolution No. 3819 - Acceptance of Airport Development Grant #E7S09 in the amount of \$90,000.00 from the Arizona Department of Transportation for conducting an airport drainage study.

Airport Manager Rick Severson stated that the Arizona Department of Transportation, Aeronautics Division, has offered the City of Prescott a grant to fund the majority of the cost to perform an airport drainage study. He said this is the first element in the process leading to final design and construction of the underground drainage system. The total project cost for the drainage study is estimated at \$100,000, with 90%, or \$90,000.000, reimbursable under this grant; there is no FAA participation in this phase.

- B. Approval of Amended and Restated Agreement and Declaration of Trust (Yavapai Combined Trust).

Human Resources Director Jolaine Jackson stated that the City participates in the Yavapai Combined Trust, along with the Town of Chino Valley, Yavapai College and Yavapai County, to provide health insurance to its employees. She said there are occasionally changes to state statutes that require the trust to amend the language of the trust agreement. The trust agreement has been updated with language pertaining to ARS 11-952.01(K), specifically adding clarification to such things as Board of Trustee/Advisory Committee composition, investments and requirements for membership in the trust.

Councilman Bell noted that the memo included Chino Valley, but they are not listed in the document itself. Ms. Jackson explained that Chino Valley came into the program a few years ago; they were not one of the founding members, so their name was not on the original document.

- C. Adoption of Resolution No. 3817 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into an Agreement with Strategic Alliance for Volume Expenditures (SAVE), a purchasing cooperative group, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Administrative Services Director Mic Fenech said that the City of Prescott is authorized through Arizona Revised Statutes and the Prescott Code to

participate in cooperative purchase agreements, which often improves competition, quality and service, provides lower prices and/or better value and helps avoid duplication of efforts. The Strategic Alliance for Volume Expenditures (SAVE) is a resource for piggybacking off other governmental entities' contracts—just like utilizing the State of Arizona contracts; however, there is no fee attached to SAVE as there is with the State.

Mr. Fenech said that in order to actually acquire goods and services through a cooperative, the City Council must adopt a resolution signifying their willingness to participate in a specific cooperative purchase agreement, and the resolution presented would enable participate with SAVE.

Councilman Bell asked where SAVE was located; Purchasing Manager Dawn Foster replied they were located in Tempe, Arizona.

- D. Award of multiple bids for library materials to Baker & Taylor Books & Entertainment, Brodart Co. and Ingram Library Services for a not to exceed amount of \$100,000; and authorize the award of sole source vendors for library materials to Recorded Books, Thomson Gale and Digital Library Reserve, Inc. for a not to exceed amount of \$15,000 each.

Parks and Recreation Director Jim McCasland stated that sealed bids were received from library materials vendors for the furnishing of library books, CD's and other library materials. Potential vendors were notified that multiple awards were anticipated due to the quantity of materials not available from any one vendor. Delivery times, publisher's lists and discounts available to the Prescott Public Library were considered in the recommendation for these awards. The initial term of this contract is for three years beginning July 1, 2007 through June 30, 2010 and is renewable for two (2) successive terms of one year each.

Mr. McCasland continued, stating that five vendors responded to the RFP, and each vendor has a range of discounts based on the type of material provided. The figure represents the discount on trade materials, which is the bulk of their purchasing. Although the total amount spent on library materials for FY08 will not exceed the requested budget of \$153,840, multiple awards with a Not to Exceed amount give the library the flexibility to spend less with one vendor and more with another, depending on availability of materials requested and varying discounts offered.

Councilman Bell said that this is a three-year agreement, with potential extensions, and asked if that wouldn't make the total \$769,000. Mr. McCasland said that they would not spend more than the budgeted

amount each year; this will just give the library the flexibility to purchase up to a certain amount of one vendor.

Councilman Blair asked why this is coming before them now, rather than waiting until after the next fiscal year begins. Mr. McCasland replied that they are trying to make sure there is no lapse in the contract. Mr. Norwood added that this would not take effect until after July 1.

- E. Adoption of Resolution No. 3820 - Accepting grant funding from the Governor's Office of Highway Safety in the amount of \$4,900.00 for continued participation in the Occupant Protection Enforcement "Click it or Ticket" Program.

Police Chief Randy Oaks said that since October 2000 the Prescott Police Department has participated in a statewide Occupant Protection Enforcement, funded by the Governor's Office of Highway Safety, designed to increase the statewide seatbelt and child safety seat usage rates. Since the program's inception, eight Prescott Police Officers have received their Child Safety Seat national certification, participating in numerous local events in which they inspect child safety seats and provide instructions to parents and caregivers.

Chief Oaks said that each year since the program began, the GOHS provides funding for overtime expenses associated with participation in the program. This year's grant funding is \$4,900.00 and is allocated for officer overtime for enforcement and educational efforts.

Councilman Blair asked if the City has any numbers on how many people they make contact with. Chief Oaks said that he did not have it readily available, but they would have figures available for the past seven years and will forward that information to the City Council members.

- F. Award of bid and contract for the Copper Basin Road Improvement Project, White Spar Road to Sheriff's Posse Trail, to Asphalt Paving & Supply, Inc. in the amount of \$11,794,541.70.

Engineering Services Director Mark Nietupski said that this is to award a bid and contract for construction services to improve Copper Basin Road from White Spar Road to Sheriff's Posse Trail. He said the project includes new water main with services, new sewer main with services, drainage enhancements, new asphalt pavement with rubberized friction course, curb and gutter, sidewalk along the north side of the roadway, some retainer walls and paving of three adjoining unpaved roads (Carson Drive, Ute Road and Moyer Road). Park Avenue will be improved to the north of Copper Basin just behind the box culvert in Aspen Creek.

Mr. Nietupski said that the street improvements will include one lane in each direction with left-turn lanes at Park Avenue, Highland Drive and Hassayampa Village Lane. Phase I must be substantially completed prior to commencement of Phase II and the traffic contract will consist of detours, lane closures and segment closures. Access for emergency vehicles will be maintained throughout the project, as well as an emergency response plan will be prepared by the contractor and reviewed by City staff and the Fire Department. He added that detours implemented on unpaved streets will include application of environmentally-friendly palliatives to reduce dust.

Mr. Nietupski said that two bids were received on the 11th; the low bid was submitted by Asphalt Paving & Supply in the amount of \$11,794,541.70. In reviewing the bids, initially they discovered that AP&S didn't name a subcontractor for the underground utilities portion of the contract, which is significant on this contract—about \$4 million according to the contract documents. When they contacted them, they immediately responded that Atlantis Development Corporation out of Chino Valley was their preferred subcontractor and they confirmed that in writing the next day.

He said that the City wanted to note that there is a record of some performance deficiencies with Atlantis's performance on two prior City projects, in 2004 and 2005 for underground utilities. In one case Atlantis was a subcontractor and the other case they were the prime contractor. In any event, as a subcontractor on this project their performance is to be assured by AP&S as the prime contractor and that assurance is to be provided for also in a bonding capacity so there is assurance that they will be able to be on the job and AP&S will be monitoring their performance, as well as the City. The City will have full-time inspection on the project.

Mr. Nietupski said this is a two-year contract effectively requiring the first phase to be finished before the second one starts but it doesn't specifically give them one year for each phase. If they complete phase one sooner they could move into phase two immediately. Anticipating an award of the contract, work would begin in June and ultimately be finished in June of 2009. Work hours on the project initially will be 7-5 Monday through Friday as long as they make the schedule and keep things on track. They wouldn't anticipate any Saturday work but should the schedule fall behind they may end up having to work Saturdays; that's an option that they have. This project is from the One Cent Fund for street improvements, Water Fund improvements for water and Sewer Fund improvements for sewer.

Councilman Blair said that although AP&S does a fine job, when they start talking about a contractor that has a subcontract with an underground utility company that's doing +\$4 million worth of work, and they've been

unsatisfactory in two performances, he's concerned with what assurance the City has that they are going to be held to a responsible level on this job.

Mr. Nietupski said that was a concern, that they would get good performance. He said they have had discussions with AP&S, and they've had discussions with Atlantis as well. He believes they have had a "meeting of the minds" with respect to the expectations in that the City will require quality construction, as the contract requires. AP&S has a great stake in this as well as the subcontractor; they will be enforcing and overseeing their subcontractor. They have a great deal of responsibility there, too, so he does believe that this is appropriate.

Councilman Blair said that he can appreciate giving someone another chance but he wants to make sure that they have enough inspectors to allow them to "babysit" this company, because after two poor performances he would say that's exactly what they're going to have to do. Mr. Nietupski said that there will be full-time inspection on this project.

Councilman Blair asked if there will be an evacuation plan in case there is some type of catastrophic fire or something that would happen in that area. Mr. Nietupski said that there will be an emergency evacuation plan that the contractor will develop; staff will review it along with the Fire Department prior to beginning of any construction.

Councilman Blair asked if they are going to have a public meeting to notify all of the area of people of the plan in case something happens. Mr. Nietupski said that there will be public communications relative to all of the project activities on a regular basis and as they go forward to the project they will advise the residents in the area.

Councilman Lamerson said that they have two pretty good contractors--Fann and AP&S. They do have a problem with a subcontractor and while he understands that they're going to hold the contractor responsible to go out and buy a bond and tell them that these guys are going to do the job, they've got a couple of times that show they didn't do the job; it wasn't timely, quality of work wasn't up to expectation. He asked if the City does not have the authority or responsibility to say to the low bidder—go get somebody that can do the job the way they want it done; not necessarily go and buy a bond.

City Attorney Gary Kidd said under this process, the bid/design process, they are not able to do that. With this particular process they just deal under the procurement code and general contractor. They do, under CM @ Risk, have some ability to go through listings of subcontractors in which case they don't have to take the highest or best. They can also disqualify

subcontractors under the CM @ Risk process, but under this process their dealings have to be with the contractor. The contractor is responsible for the subcontracts and for the ultimate job performance so the performance bonds are based on the entire project. He said they have a couple of projects right now where they are holding money where there were issues with the projects to ensure that they're completed properly.

Councilman Lamerson said that for the sake of a million dollars difference in the bid process, they're requiring AP&S to supply a bond that indemnifies the City and taxpayers for the screw-ups that their subcontractor could possibly make during the job. Mr. Nietupski said that the performance bond is a standard requirement for all City jobs.

Councilwoman Suttles said that she would like this item pulled from the Consent Agenda, not just so they may have further discussion, but because it is over \$11 million and another huge road project in the City. She said that they are going to have two ends of Prescott torn up; Iron Springs and they're going to start Copper Basin in June. She said she's a little concerned of not just spreading the City thin, but for paying for all of this. She asked if the One Cent sales tax is going to be able to cover both of these projects. Mr. Nietupski said that the budget for this project and Iron Springs Road, and some of their other major projects, are spread over multiple fiscal years due to the duration of the projects, so there are revenues anticipated and set aside for completion of the work.

Councilwoman Suttles said that Iron Springs Road will be finished before the Copper Basin starts and she knows that they need to get into this, but she's concerned, dollar-wise, as to what they're spending and how they're doing it. Mr. Nietupski said that the work on Copper Basin will begin, and in fact Iron Springs will still be under construction, so they would be beginning work in June of this year, Iron Springs Road is not anticipated to be substantially complete until December/January timeframe of 2008, and there will be some work on Iron Springs Road subsequently in the months of May/June 2008 to do the final ACFC and adjustments of valve and manholes.

Councilwoman Suttles added that the next item on the agenda is another \$1 million off of Downer Trail improvements. It's just a huge endeavor and tends to make her a little nervous when they spread themselves so thin. She said that she knows it has to be done and there's not going to be a better time, but they are going into budget times and they've been told that some of the things are changing; they're not in double figures any more in sales tax and they're going to have to tighten up a little bit.

Councilman Luzius asked which projects Mr. Nietupski was referring to that were done previously by Atlantis. Mr. Nietupski said that they were

working on the Yavapai College Water Main Project in 2004 and in 2005 they were working on the East Gurley Street Reconstruction Project.

Councilman Luzius asked if they were remedied. Mr. Nietupski said that was correct; everything that was an issue was ultimately resolved on both of those projects. It might have taken a little longer but the workmanship that was ultimately produced did meet the specifications.

Councilman Luzius asked if there was any additional cost to the City of Prescott, other than the inconvenience of the drivers that used Gurley. Mr. Nietupski said that if he was talking about extended durations of work, yes, that was a cost to the City, but not as far as those contracts are concerned. He said that he does recall specifically on Gurley Street there were some back charges applied to the contract for some of those problems that occurred that created expenses for the City, but they were resolved and paid.

Councilman Luzius asked if they normally have full-time inspectors on projects. Mr. Nietupski said that on major projects they do provide full-time inspection as a standard operating procedure. The City of Prescott, for as long as he's been there, on projects like Iron Springs Road, Gail Gardner Way, Copper Basin, demands a full-time inspector. Councilman Luzius said they don't normally do it for a specific contractor. Mr. Nietupski said that was correct.

Councilman Luzius said that he sees the next item on the agenda is another project where Atlantis was low bidder, but staff is recommending against awarding the project to them. He said that he's wondering why they're considering them on one project and not considering on another, even though AP&S, which is a very qualified contractor, is going to stand behind their work. Mr. Nietupski said that with the way the contract is set up, the way in which it was bid, the City has no authority over the selection of subcontractors by the prime. Councilman Luzius said that he understands that, but there's a million dollars involved as far as a savings.

Councilman Lamerson said that he appreciated the comments of the other Council members, and he understands why they're doing what they're doing, but it doesn't necessarily mean that he likes it. He said that they have another qualified bidder that they haven't had the same level of dissatisfaction with, but there is a million dollars to be considered. He said that he just wants to make sure that the bond they're talking about that these people provide is going to cover the City from any costs that they're going to have to incur. He said that he doesn't want the City subjected to something because they're willing to accept a contractor that they've had problems with. Mr. Nietupski said that his point is well taken and certainly

they will be very involved with this project to make certain that they get what is required.

Mayor Simmons said that he wanted to make it clear that they're not having full-time inspectors just because of Atlantis; it is standard operating procedure. Mr. Nietupski said that was correct.

- G. Award of bid and contract for the Downer Trail Improvement Project, Oregon Avenue to Sierry Peaks Drive, to Fann Contracting, Inc. in the amount of \$1,073,807.50.

Mr. Nietupski said that this is a contract for construction services to improve Downer Trail from Oregon Avenue to Sierry Peaks Drive. The improvements include new water main and services, new sewer main and services, sewer lift station abandonment, minor drainage enhancements, reconstruction of the existing pavement from Oregon Avenue to Far View Lane, construction of new pavement from Far View Lane to Sierry Peaks Drive, and construction of a turn-around and gate on Downer Trail just south of Sierry Peaks.

He said that this is part of a six-party development agreement in which the City is obligated to design and construct this project. He said that the final street design configuration was generated with public involvement and the project was developed to avoid impacting existing trees. He said that the residents prefer that a more rural character be maintained so pavement will be 22 feet in width and curb and gutter will be installed only at the intersection of Far View Lane and Downer Trail; this was approved by the Fire Marshal.

Mr. Nietupski said that three bids were received and although the low bid was submitted by Atlantis Construction, the City Procurement Code sets forth and contemplates various factors in determining "most responsible and/or most qualified," one of which is "failure of the contractor to have met bid specifications or time limits in previous contracts" and another "a record of failure to perform or unsatisfactory performance of two or more contracts within a thirty-six month period." As he mentioned during discussion of the previous item, review of two City projects constructed in 2004 and 2005 indicate repeated performance deficiencies.

He said that based on this history, staff was recommending the award go to Fann Contracting, the second low bid, at \$1,073,807.50.

Mr. Nietupski said that work hours would be 7 a.m. to 5:30 p.m. Monday through Friday, with Friday and Saturday at the contractor's discretion. He added that there are adequate funds from the One Cent Sales Tax for Streets and Open Space, the Water Fund and the Sewer Fund.

Councilman Luzius asked the Fire Marshal if it was correct that he approved of the 22' wide pavement; Fire Marshal Galde replied that was correct.

Mr. Nietupski added that there would be "no parking" signs installed along the roadway.

Councilman Bell asked if Atlantis showed up at the pre-bid meeting. Mr. Nietupski said that he was not sure, but he added that it was not a mandatory pre-bid.

Councilman Bell asked if there is a process ahead of time to notify a firm that their bid would not be considered, because he knows what amount of work it takes to prepare a bid. Mr. Kidd said that there are statutory procedures available, but there is nothing included in the City's Procurement Code.

- H. Approval of an engineering services contract with Roundabouts & Traffic Engineering in an amount not to exceed \$362,160.00 for engineering services to prepare feasibility studies and designs for potential roundabouts.

Mr. Nietupski said that this item would procure specialized professional engineering services for feasibility analysis and design of traffic roundabouts at six prospective area locations identified at Side Road at SR 89 A traffic interchange (twin roundabouts), Ruger Road (relocated) at SR 89; Side Road Connector at SR 89; Prescott Lakes Parkway at Sundog Ranch Road; Prescott Lakes Parkway at Sundog Connector Road; and at the south entrance to Park West on Willow Creek Road.

Councilwoman Suttles asked if the Arizona Department of Transportation (ADOT) was planning to help with any of the financing of the study. Mr. Nietupski said that at this time there are no agreements with ADOT.

Councilwoman Suttles asked how these locations were identified. Mr. Nietupski said that those identified are relevant to the Airport Annexation Area which was identified by the City Council back in January. He said that it would be about a six month process.

Mr. Nietupski said that Roundabouts & Traffic Engineering (RTE) of Truckee, California was unable to attend the meeting today, but will be at next week's meeting. Councilman Luzius asked that it not be on the Consent Agenda in case they had any questions, or RTE had any comments.

- I. Adoption of Ordinance No. 4594 - Abandonment of Beach Avenue, and approval of Replat of portions of Block 3 Murphy's Second Subdivision and Block 19, Fleury's Addition.

Mr. Nietupski said that this is to abandon an unimproved portion of the south half of Beach Avenue east of Park Avenue, adjacent to Lincoln Elementary School and replat portions of Block 3, Murphy's Second Subdivision and Block 19, Fleury's Addition, as requested by the Prescott Unified School District. He said that the right-of-way will be conveyed at appraised market value of \$140,000.00 which is comparable to the funds owed by the City to the school district for the City's share of the tennis court improvements at the High School.

Councilman Luzius asked if the School District was agreeable to the abandonment. Mr. Nowood replied that they were.

- J. Adoption of Resolution No. 3821 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the preparation and submission to the Arizona Department of Water Resources of an application to modify the City of Prescott's Designation of Assured Water Supply.

Project Manager Jim Holt said that as a step toward importing water from the Big Chino Sub-basin, the City must apply for and receive approval of a modification of its Designation of Assured Water Supply from the Arizona Department of Water Resources (ADWR) formally recognizing the new resource. Adoption of the resolution will authorize preparation and submission of the application. In January 1999 ADWR declared that the Prescott AMA was no longer at safe-yield. This triggered full implementation of the Assured Water Supply Rules, requiring that only renewable or importable water supplies from outside the Prescott AMA be utilized for new subdivisions within the AMA.

In 1999, ADWR recognized and designated the City of Prescott as having an assured water supply in its Decision and Order AWS No. 99-002. That order was modified on September 16, 2005, as AWS No. 2005-004. In 2004, the City and Town of Prescott Valley purchased 6,530.7 acres of land, now known as the Big Chino Water Ranch (BCWR), situated outside the Prescott AMA in the Big Chino Sub-basin of the Verde River Groundwater Basin. He said that the partners are proceeding to develop a well field, pipeline, and other pumping infrastructure necessary to produce and transport groundwater for use inside the Prescott AMA.

Mr. Holt said it is the intent of the City to obtain a final determination of ADWR on the quantity of Big Chino Sub-basin groundwater it is entitled to withdraw and transport purchase to Title 45-555(E). In 2003 the City

received an advisory opinion from ADWR indicating an entitlement of 8,717 acre feet per year. The City desires to proceed at this time with modification of its Designation of Assured Water Supply in accordance with ADWR procedures, to reserve and include in its designation that quantity of Big Chino Sub-basin groundwater determined by the Director of ADWR to be physically, continuously, and legally available to the City, for use within the Prescott AMA.

He said that preparation and processing by ADWR of the City's application to modify its Designation of Assured Water Supply is anticipated to take approximately 12 months.

He said that Herb Dishlip will assist with preparation of the application and guiding it through the process. Mr. Dishlip said that the main reason for the resolution is that the rules of ADWR require a resolution authorizing the City manager to apply. He said that for those on the Council the last time they did this, a couple of years ago, they know it is a fairly involved process; it does take quite a bit of technical work to be reevaluated. They'll have to face the fact that there has probably been some staff turnover at the ADWR who won't remember what we did. The big piece that is new is the analysis of the physical supply of water available to the City of Prescott through the Big Chino Ranch.

Mr. Dishlip said that Southwest Ground-water Consultants has been hired to update the model that was already completed under contract with new data that has been made available as a result of exploration. They've had a preproposal application meeting with the ADWR, they made some suggestions, Southwest Ground-water made a proposal to ADWR on how they would do this study and they're now awaiting comments on that proposal. His understanding from Southwest Ground-water Consultants is that they expect to have this new model study available for peer review by June 8.

He said that the process itself, even though they want to focus on the Big Chino Water Ranch, does require a complete review of all of the water supplies available to the City, including groundwater supplies that are available inside the AMA, effluent supplies and the surface water from Granite Creek, so they'll have to review all of those things and update the analysis. He said that it also involves updating such things as the plan for water distribution and discharge, making sure they have enough recovery wells, and taking a look at their recharge facilities. All of that is so recent, being completed in 2005, he doesn't anticipate there'll be a lot of issues associated with it, but it is an opportunity also for the City to take another look at their application and their portfolio.

He said that the one piece of information that's different about this modification than the previous modification is that because they're still working on the plan for the pipeline, even though the pipeline does not exist, ADWR, in issuing the Decision and Order, will give the City what they are calling a phased modification, meaning that everything is approved as long as the City performs on the construction of the pipeline. They will have the analysis of new Decision and Order, more water will be put into their Alternate Water account, but they won't be allowed to spend that water on approved new subdivisions from the Big Chino until they meet the performance standards that the ADWR will put in the Decision and Order. That is a check that, in fact, if something happens and they're not able to build the project, that they don't have houses reliant on that water supply.

Mr. Dishlip said that the goal of the department is complete the process in 210 days, but the only penalty if they don't complete it within that timeframe is the City would get their application fee back. Having experienced this once before, everyone knows that these things are controversial; there is a public notice process, a public appeal process, with a potential of having to respond to protests, and even a potential for a hearing. It is his and staff's opinion that it would be much better to know these things in advance of construction, than waiting to build the pipeline and then have to face those issues.

Councilman Luzius asked about the resolution. Mr. Kidd said that he had drafted a couple of versions of the resolution. When they initially looked at it, they thought they had to fill in an estimated amount of groundwater. As it turns out, the rule does not require that. The one they did several years ago had estimated based on current information, but since the process doesn't require that the resolution the Council will see is basically an authorization process allowing the City Manager to start the application. He said that there is a draft version available and will be included in next week's packet.

Councilman Luzius asked that this item be taken off the Consent Agenda.

Councilman Bell asked if the 12 months time constraint been tied into their timeline for the pipeline and to deliver water. Mr. Holt said that the Council, on a number of occasions, has expressed a desire for greater assurance that if they build the project they will have a supply of water to put in the pipeline. In an effort to provide that greater assurance to Council, staff is recommending that they go through this process. It is his recommendation that they delay awarding any construction contracts until after the process is concluded. They have talked up until now that they would be awarding construction contracts at the latter part of the summer this year, in order to have the project complete by 2009. He thinks it is

imprudent to suggest delaying the awarding of construction contracts so they would be talking about delaying award of those until the summer of next year, so they have a higher degree of certainty with respect to the water supply and its inclusion in the quantity of water that they legally have entitlement to.

Councilman Bell asked if, assuming that the Director of ADWR concurs and issues this modification, that means they would be looking at delivering water in 2010. Mr. Holt said that would be a reasonable expectation.

Councilman Lamerson said that, if he's followed this correctly, they're not asking for anything outside of 45-555; they're following the Council's direction for clarification on their assurance of water, and he's pleased with the direction they've chosen to go and appreciates it.

Jack Wilson asked if the City Manager would be asking for a specific amount when the application is submitted to ADWR. Mr. Dishlip said that the application does require a list of supplies available, physically, legally and continuously, but in the past the ADWR has allowed them to amend the number both up and down so the application is not a binding number. It is their estimate at the time they apply as to what they have available, but if for whatever reason they think they have more, they're allowed to modify the application.

Mr. Wilson said that the authorizing legislation authorized significantly more than 8717, which was modified by the ADWR. He asked if they are going in for 8717 or a greater amount. Mr. Dishlip said that the City will seek a final determination as to an advisory determination of what they are eligible for and that will be the number in the application. They are also entitled to additional water, under 45-555, for historically irrigated acres (HIA) and they will be including that as well in the application because the Big Chino Ranch does, in fact, contain HIA and they need to get a determination as to how many HIA they're eligible for.

Councilman Roecker said that his understanding is that acquisition activity for the pipeline will continue even though there'll be no construction awards. Mr. Holt said that it was their intention to continue to proceed with acquisition of right of way so that at such time as they are more confident with respect to the entitlement of water to the City they will be able to move forward with construction contracts immediately. They will continue with acquisition and design activities.

Councilman Roecker said that he believes that if they were to hold off on the right of way acquisition, those costs could increase, but he does agree

that this is the most prudent, conservative way they can go to protect the citizens as far as tax dollars being spent.

Councilman Blair asked if they are going to go for the Final Declaration or the amount of water based on the legal amount of surface water, and then let ADWR determine how much we do get. Mr. Holt said it was with ADWR's interpretation of the qualifying criteria that they arrived at the 8,717. It will be the intent of the application to have ADWR review that determination, it's calculation of those qualifying criteria to determine whether that 8,717 is what the number should be. He said that their application will be what is appropriate based on the determinations and the application and criteria in the statutes.

Mr. Dishlip said that the water they're eligible for under 45-555(E) is the water under the exemption of 14,000 AF. The criteria that statutes set forth were water relinquished by the City under its CAP contract, and the water associated with Indian water rights. The reason for the 14,000 was that at the time the legislation was passed there was a potential that the Big Chino Basin would be a source of water supply for the Fort McDowell Indian Reservation, and potentially the Camp Verde Yavapai settlement. Neither of those has happened, but they did have the Yavapai Prescott settlement. The sense is that if they go in and say they're entitled to 14,000 AF, and ask the ADWR to tell them how much they're going to get, they're going to say 8,717. He thinks it would be more prudent for the City to investigate itself what they believe they're entitled to under the criteria of the statutes and suggest to ADWR what they are entitled to, and then have them review the City's calculation as opposed to their own calculation.

Councilman Blair said that he asked the question because he believes they should be aggressive about it and also suggests that by reading the memo, there are a lot of properties to look at for the pipeline. He asked at what time they start talking about eminent domain. He asked if the Council is ready to do that. Mayor Simmons said that he wasn't sure that had anything to do with what they're discussing today.

- K. Approval of professional services contract with Civiltec Engineering, Inc. in an amount not to exceed \$441,368.00 for Phase II of the North Prescott Sewer District.

Public Works Director Craig McConnell said that this item is a proposed new contract with Civiltec Engineering, Inc., a local civil engineering firm. He said that he presented, at Council request, a detailed update of this project on April 3, so he's not proposing to go through that material presented, but in summary the Council has requested that they move ahead to the 30% level of design definition. This is the level required by

Arizona Revised Statutes for Council consideration of whether to adopt a resolution of intention, which is necessary to formally proceed with an improvement district formation. What staff is proposing to do in this contract is to not only build upon the information which was developed in the phase I conceptual engineering work, but also to look at the feasibility and costs of considering some low pressure sewer in addition to the predominately gravity sewer configuration which was estimated in the previous engineering work. The importance of that would be that it may be a means of reducing the capital costs of providing sewer if they use a low pressure hybrid system rather than a straight gravity system; the cuts may be shallower if they encounter rock. The other side of that, as pointed out, is when they get to low pressure sewer systems, they are much more costly to maintain and require more frequent maintenance.

Mr. McConnell said that Council has expressed an interest in the past of looking at phasing the implementing of sewer in this area. As they've looked at the maps in the past in the southern part of the area there are some pockets which have a higher incidence of septic tank problems so there has been an interest in implementing in phases rather than doing all 420 in one construction contract.

He said that another interest that has been expressed is trying to refine the magnitude of the issue; the real issue of failing septic tanks and that type of investigation analysis is included in this scope of work; specifically how many septic tanks are failing, where they are failing, to provide additional information which will be brought to bear on the question of whether the improvement district should go forward to implement sewers in the North Prescott area and according to what phases.

He said that on April 3 he gave the Council some milestones for this project, one of which was that they would bring back this contract to the Council today for approval next week. In the staff report there are some other milestones which have been recited. The Sewer Model was reviewed on April 24 and they discussed the extent inside and outside City limits--unsewered areas within the City. He said that existing, platted, developed areas but on septic tanks was around \$55 millions estimate for implementing or retrofitting systems. Outside the City limits was more around \$97 million, so this is a substantial cost item if the City moves along the process to adopt a policy of sewerage all presently unsewered areas.

Mr. McConnell said another thing discussed is that they will be proceeding with completion of the Sewer Model and sewer rate and development fee study which is similar to the process that the City went through last year for water rates and fees. He said that they are proposing to bring those elements to converge later this year—completion of the 30% design,

looking at low pressure options or hybrids, the rate study, so the Council can consider a policy of what to do and how to pay for sewer in unsewered areas, but today what they have on the agenda is a contract to do the 30% design.

Councilman Blair said that it has been seven years of him fighting on the issue and he wants to know, at the time of final 30% design, are they able to tell the residents in that area how much it would cost for each lot. With that said, if they would have done it seven years ago, three years ago, or two years ago, the costs would have been less. He said that all one has to do is walk the area and they can see the need. He said that the last one to put in an alternative system spent \$12-\$15,000.

Mr. McConnell said that the 30% design does include a corresponding cost estimate. As they know, cost estimates are not construction final costs. They would have to go out and bid, but what this does do, in conjunction with the sewer rate and fee study, and the Sewer Model, is provide the information that the Council needs to talk about the policy of unsewered areas and then how that policy would apply to North Prescott. For example, some policy alternatives could be the sewer fund (existing sewer customers) could fund the engineering expenses with the construction costs then being assessed to the benefiting property owner. Another alternative might be that the Council could decide as a matter of policy that the property owner cost could and should be capped, with justification that we are a community and there is a public health service. He said that those are the types of discussions they would hold later this year.

Mr. Norwood said that they're not here today to decide and make recommendations on the alternatives. He asked if at the end of the 30%, it will be a final number that people can take to the bank. Mr. McConnell said that the answer is the final number depends on two things; (1) the policy on the sewer connection fees; and (2) the actual construction contract costs, so at the end of 30%, they will not have final construction costs. At the end of the 30% they could have a policy along the lines of one of those alternatives.

Mr. Norwood said that historically they've done improvement districts and once they get to the 30% there is an estimate. He asked when it is that they get an actual hard final number that anything over that the City pays for. Mr. McConnell said that they do the 30%, they adopt a resolution of intention that sets in process, do the final design, and then there's a list of steps required by Arizona Revised Statutes, after which they'd know how much it is going to cost and whether the district will go through.

Councilman Blair said that he thinks it is all garbage. If they're going to do anything they've got to have a policy. The current Council has identified for the last three years a high priority to have a sewer system policy. His opinion is that some day that facility is going to have to have sewer. They need to go to final design, get an accurate amount and then move forward.

Councilman Roecker said that as he remembers it, the people in that neighborhood couldn't agree whether they wanted to do it or not and he can remember going to a meeting at Taylor Hicks Elementary School where the number per lot was \$7,000 and everyone was on board. Then, they had people come to the podium and say they don't want sewer. He said it's not all the Council's position; those delays were caused by those people living there.

Councilman Blair said that fundamentally he disagrees with Councilman Roecker; he's walked the neighborhood and he gets a different answer. There was an in-house lawyer swaying people's opinion to get a different outcome and that's wrong. Councilman Blair said that the City needs to be working to do those things for people that they cannot do themselves, one of which is sewer.

Councilman Lamerson said that at some point they need to know what it is going to cost to lay the sewer lines, and what it is going to cost the public, whether they like it or not, their fair share to hook up to that line. That's what he is interested in hearing. He'd like to know when he can expect to hear that.

Mr. McConnell said that the answer to that question is when the Council decides what the policy is for sewerage unsewered areas and the construction contract is awarded and completed, just like Iron Springs Road or any other public project.

Councilman Lamerson asked if the 30% includes what it is going to cost to put those sewer lines up the streets. He asked when they will get that estimate. Mr. McConnell said that the 30% design will be accompanied by a cost estimate at a 30% design level. Councilman Lamerson asked if that meant they could consider that the cost would be about three times that amount. Mr. McConnell said that was not correct.

Councilman Lamerson said that at some point they owe it to the people that live in that area to tell them what it is going to cost to hook up to public sewer. At some point the Council took a position that they wanted a public sewer policy within the City of Prescott, but they're not going to get that done if at some point they don't get off the dime. He said it's not the fault of City staff. He asked what they need to do get the cost.

Mr. Norwood said that the contract before them, if approved next week, will provide an estimate at the end of this year. It is not a construction bid; it's an engineer's estimate after 30%. Then they take it to the next phase. Councilman Lamerson asked if that would be better than what they had with Mullen Way. Mr. Norwood said that it would.

Councilman Luzius said that based on everything he's hearing, they need to get on with it and approve the study so they know where they stand and what the costs will be. Mr. McConnell said that this will provide accurate estimates that will build upon previous work.

Councilman Blair said that it isn't about Mr. McConnell, but it upsets him that it has gone on so long and he wants to know what it's going to cost additionally to take this to final design. He asked if they're talking about going another \$400,000 to take it to final design. Mr. McConnell said that it would be something in that range. They can't give a precise cost of what it is going to be until they know the exact configuration.

Councilman Bell said that he lives right in the middle of the North Prescott Sewer District and he's frustrated also because he's heard about it forever and he wants to see the Council make a decision and move ahead.

Mayor Simmons cautioned everyone about quoting the estimates; that's what has gotten them in trouble before. The only time they are really going to know the cost is when they go to bid. They could have an estimate, but estimates can go south. He said that he doesn't know how formalized the estimate was with Mullen Way, but he doesn't want to see an estimate go to the public, set policy and end up having some ridiculous figure above that. He, too, is frustrated with the time taken but he echoes what Councilman Roecker said that it is not all the fault of Council or staff. They had some obstructionists out there that were fighting and they probably lost a year or year and a half. The bottom line is they need to move forward.

- L. Adoption of Resolution No. 3818 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into a Lease Agreement for the lease of real property owned by the City of Prescott, described as a portion of Lot 234 Grove Avenue and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Kidd said this is the follow up on the Economic Development Agreement that the Council approved in December 2006 with Prescott College. The City has acquired the Grove Building and the vacant parcel of land, both of which used to belong to the Department of Economic

Security. Pursuant to the EDA, Prescott College agreed to reimburse and make the Council whole for its expenditures. The City advertised the vacant parcel for lease; there was one proposal from Prescott College in the amount of \$1,000 per month for one year, with an option to renew for an additional two-year period of time.

- M. Approval of Minutes of the Workshop of the Prescott City Council held on April 24, 2007, the Regular Voting Meeting of the Prescott City Council held on May 8, 2007, and the Study Session of the Prescott City Council Held on May 15, 2007.
- N. Selection of items to be placed on the Consent Agenda for the Regular Voting Meeting of May 22, 2007.

Councilman Lamerson selected Items A, B, C, D, E, I, K, L, M for placement on the Consent Agenda.

III. ADJOURNMENT

There being no further business to come before the Prescott City Council, Mayor Simmons ADJOURNED the meeting at 4:34 p.m.

ROWLE P. SIMMONS, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk