

PRESCOTT CITY COUNCIL  
REGULAR COUNCIL MEETING  
PRESCOTT, ARIZONA  
OCTOBER 9, 2007

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, OCTOBER 9, 2007, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

Mayor Simmons opened the meeting at 3:01 P.M. Councilwoman Suttles introduced members of the Prescott Regulators and Their Shady Ladies, who then led the Pledge of Allegiance.

Mayor Simmons asked City Clerk Elizabeth Burke to call the roll, which was as follows:

Present:

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

Absent:

Councilman Roecker

## **SUMMARY OF CURRENT OR RECENT EVENTS**

Finance Director Mark Woodfill reported that the FY 2008 Budget document was complete, and stated there are copies available around City Hall and also on the City's web site.

Mayor Simmons said that there has been a great deal of speculation on whether Councilman Blair would be supporting the Colorado Rockies or Arizona Diamondbacks. Councilman Blair said that he did hope that his nephew received the Most Valuable Player award, but he would be supporting the Diamondbacks.

Mayor Simmons reported that he had attended a meeting of mayors in Yavapai County, which included the three Board of Supervisors and two city managers, in an effort to communicate "across the hill" with entities in the Verde Valley area. He said that all of the entities were very professional and it was a very good meeting.

### **I. PUBLIC COMMENT**

- A. Well Woman Health Check Program of Community Health Services of Yavapai County re Breast Cancer Awareness Month.

Virginia Rodriguez of the Well Woman Program of County Health Services addressed the Council, stating that October was Breast Cancer

Awareness Month. She gave some information to the Council and public, noting that breast cancer is the second highest mortality disease of women, with lung cancer being highest. She added that the Health Services provides for free mammograms for those that cannot afford them. She asked everyone to remember all of the women that are fighting this disease.

## II. PROCLAMATION

- A. October 21, 2007 – *Shriners Appreciation Day*.

Councilman Bell read a proclamation proclaiming October 21, 2007 as Shriners Appreciation Day, and presented the proclamation to Joseph Pendegrast of the Prescott Shriners Club.

## III. PRESENTATIONS

- A. Presentation of Appreciation Plaque to Dezie R. Lerner for contributions of art work to both the Prescott Public Library and Golf Course.

Library Director Toni Kaus showed a brief PowerPoint presentation on artwork that had been donated by Dezie R. Lerner at the Library. Mic Fenech then showed the artwork that had been donated by Ms. Lerner at the Golf Course. A plaque of appreciation was presented to Ms. Lerner. Mr. Fenech also recognized Susan Popko, the artist.

- B. Presentation by Prescott Frontier Days, Inc. regarding the 2007 World's Oldest Rodeo.

John Reyes, President of the Prescott Frontier Days, said that on behalf of the Board of Directors, the General Manager and membership of the Prescott Frontier Days they extended their gratitude to the City of Prescott for their support of the World's Oldest Rodeo. He said that it has been gratifying to see the teamwork and its results. In 2006, they raised the bar with ticket sales exceeding projections, and they achieved their goal of seeing the rodeo on national ESPN television. In 2007 the rodeo and committee faced challenges on two fronts—dates were bad with the Fourth of the July in the middle of the week, and the negative impact of the economy. He said they were encouraged as their ticket sales were down only 3% from the record-breaking 2006. They do, however, face serious challenges as other venues are established in the tri-city area.

Councilman Bell said that with the downturn in the economy, and with the Rodeo being in the middle of the week, they did a great job. He did look through the packet and the fact that they ended up with a \$20,000 surplus was amazing. It was a great year for the Rodeo and the City because the

City now owns the Rodeo Grounds. The City is delighted to be able to move ahead. Mr. Reyes said that with the partnership they've established, the Rodeo success will continue to grow.

Councilman Blair said that it is important to understand that it took a long time to get to where the City owns the property, and he's very proud of that. Mr. Reyes commended all of the Council for getting that property because it preserves it for generations to come.

Councilwoman Suttles said that the Prescott Frontier Days Rodeo needed to be in Prescott and realize that there was not a chance of being moved off that site. With the effort of the County, the City and the Rodeo group, it came to fruition.

#### **IV. CONSENT AGENDA**

**CONSENT ITEMS A THROUGH E LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.**

**COUNCILMAN LAMERSON MOVED TO APPROVE CONSENT AGENDA ITEMS IV-A THROUGH IV-E; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

- A. Approve Authorization for Services No. 2 to the General Engineering Services contract with Z & H Engineering in the amount not to exceed \$71,589.00 for design of the relocation of Clubhouse Drive.
- B. Award bid for the Sundog Wastewater Treatment Plant Secondary Digester Rehabilitation Project to Fann Environmental, LLC in the amount of \$402,724.00.
- C. Approve agreement with APS Energy Services Company, Inc., in the amount of \$90,000.00 for performance of a technical energy audit.
- D. Approve contract with Sanborn in the amount of \$90,000.00 for photogrammetric services.
- E. Approval of the Minutes of the Joint Special Meeting/Regular Study Session of the Prescott City Council held on September 18, 2007, Minutes of the Special Meeting of the Prescott City Council held on September 25, 2007, and Minutes of the Regular Voting Meeting of September 25, 2007.

**V. REGULAR AGENDA**

- A. Approval of an agreement with Economists.com for Analysis and Development of Water and Wastewater Rates and Impact Fees in an amount not to exceed \$137,100.00.

Public Works Director Craig McConnell said that this is an agreement with Economists.com for analysis and development of water and wastewater rates and impact fees. There are two components of the contract; to review and update the rates and impact fees for the water enterprise and develop new rates and fees for wastewater operations including recharge and treated effluent. Indications are that the wastewater side of the house has not been looked at since 1999.

Howard Mechanic said that he appreciated the presentation made last week. He reviewed the 26-page document and nowhere did he see the word *conserve* or *conservation*. The last time there was a water rate study, the consultant considered the effects of various rate structures on conservation, and it is not listed in the scope of work. He asked if that would be considered and if there would be discussions with the Water Conservation Committee to get their input.

Mr. McConnell said that the rate structure which is now in place, and which will be updated with this contract, is strongly tied to conservation so conservation will be examined with the update and they will make sure that there is communication with the Water Conservation Committee.

Mr. Mechanic said that two years ago when the last study was done there were statements made that two years later (now) there would be a new study done and one of the major considerations in the new rate study would be the additional costs for the planned Big Chino Water Pipeline. The last estimate for the cost of that pipeline was done about two years ago, and they expected a new cost estimate by this time. Since the pipeline schedule has been delayed a year, they don't have a new cost structure, so he wondered if they would use the old estimate for this study or try to update the estimate.

Mr. McConnell said that they will use the current working estimate for the pipeline project, which is different than what was discussed two years ago.

Mr. Mechanic said that he supports the proposal; however he is concerned about the direction of the public debate and even the discussion with Council regarding (1) water rates and (2) impact fees.

With regard to rates, Mr. Mechanic said there was a lead article in the Courier last Saturday “I thought the increase was outrageous,” talking about the last increase. There have been a lot of letters to the editor regarding these increases and he doesn’t think that there has been enough education to the public that the rate increases are not outrageous and are appropriate.

Mr. Mechanic said that this study will probably show that rates need to go up more, but it is a disservice for the City to not charge the full amount.

Also, he said, it is important to know that state laws do not let impact fees to be set too high; they can be lower. He hopes that the City will take a proactive approach to educate the public on the need for the increases.

Councilman Blair said that there hasn’t been a past council that has punted on the issue of impact fees for new construction since 1992. Prior to 1992, there wasn’t an impact fee. He would suggest that people who have bought houses in the community built prior to 1992 did not pay their fair share. Mr. Mechanic said that they cannot charge impact fees for anyone that built before 1992, so they can complain but that doesn’t solve the problem.

Councilman Lamerson said that he supports this study; he understands that the City of Prescott has a proportionate share of the overdraft of the AMA that the existing rate payers are responsible for. It has nothing to do with impact fees. Whether another person moves to the City or not, they have to import water to balance the water consumption to reach safe yield. Between assured water and alternate water, the City of Prescott is taking out the ground today between 7,000 to 8,000 ac. ft. of water a year and they have the physical, artificial and natural credit capability for about 3,500 ac. ft. a year. He understands why they have to address the water rates. They have been subsidizing water since 1992, or 1901; they’ve never really charged people to deliver them their water.

Councilwoman Suttles asked what it costs right now to build a new home in Prescott. Mr. McConnell said for the typical residential meter, it is around \$8,000 for the water impact fee (including water resource fee and system impact fee). Councilwoman Suttles asked if they are now coming back to increase the sewer impact fee.

Mr. McConnell said they need to be clear when they talk about impact fees. In the meeting already, there have been accurate statements made that impact fees are for impact of new development on the system which requires capital improvements. In order to levy impact fees, they have to have a capital improvement program consisting of specific projects with estimates for new capacity. That is what the impact fee is. To the extent

that they have undersized facilities in certain parts of town, they cannot charge the cost of that to impact fees; it has to come out of rates. When this study is done and the consultants come back with rate and fee alternatives, they will be sorted in those categories.

Ethan Edwards said that they have been saying for years that growth does pay for growth without impact fees. All they have to do is look at the revenue stream proposed from the Granite Dells; there is a \$21 million surplus coming to the City because the construction sales tax and TPT pay for all of the expenses of the new growth infrastructure needed for that project. If they 'x' out the impact fees, it is virtually a break-even process.

**COUNCILMAN LUZIUS MOVED TO APPROVE AN AGREEMENT WITH ECONOMISTS.COM FOR ANALYSIS AND DEVELOPMENT OF WATER AND WASTEWATER RATES AND IMPACT FEES IN THE AMOUNT NOT TO EXCEED \$137,100.00; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

- B. Adoption of Ordinance No. 4627-0829 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona awarding a lease of City-owned property known as the Old Adult Center to the Boys and Girls Clubs of Central Arizona.

Mayor Simmons acknowledged kids from the Boys and Girls Club seated in the back of the audience.

Mr. Fenech said that this is presented to ask for Council's approval to enter into an agreement with the Boys and Girls Club of Central Arizona to lease the property located at 335 E. Aubrey Street, also known as the Old Adult Center.

He said that there was a Notice of Intent to Lease published on two consecutive Sundays, and the City received two proposals; one from the Boys and Girls Club, approved by the Acker Board, and one from Four County Conference on Developmental Disabilities, which was rejected by the Acker Board. Staff is recommending entering into a five-year lease with three additional five-year renewals with the Boys and Girls Club of Central Arizona.

Councilman Blair asked when the meeting was held of the Acker Board. Mr. Fenech said that the first meeting was held some time ago with members of the Boys and Girls Club Board. The second, review of the other proposal, was done via Val Isley on an individual basis after the last Council meeting.

Councilman Bell said that he had a phone call from Ms. Marsh from 4CCDD and she said that if her objections in any way would delay this for the Boys and Girls Club, she would withdraw the proposal.

Councilman Luzius said that in reference to Councilman Blair's question, there was not a meeting of the Acker Board, it was more of a solicitation through e-mail and telephone, so although he is favor of the Boys and Girls Club, he does not think there was a great deal of transparency in the meeting process.

**COUNCILMAN BELL MOVED TO ADOPT ORDINANCE NO. 4627-0829; SECONDED BY COUNCILMAN LUZIUS.**

Councilman Blair said that he has always considered his Council salary a public salary, so he will donate to the Boys and Girls Club this month's \$500 salary received from City Council.

Jessica Bybee said that she goes to the Boys and Girls Club and it is a good idea to make another one because it takes most kids off the streets, and keep them away from drugs, smoking, and alcohol. She's in a teen room and it is really fun instead of staying at home and watching TV.

**MOTION PASSES UANIMOUSLY.**

Bill Feldmeier said that as a homeowner and property owner near the now-approved Boys and Girls Club, he wanted to thank the Council for making that decision. They have had numerous conversations with the people from the Boys and Girls Club; they have done their due diligence. They have been without any activity in that building for several months and they believe they will be a great addition to the neighborhood and he welcomed them.

Don McLoud said that he was also at the meeting and is elated to have the Boys and Girls Club across the street in his neighborhood.

C. Granite Dells Estates I & II

1. Consideration of Development Agreement with Granite Dells.
2. Review of Cost-Benefit Analysis.
3. Proposed Annexation.

Mr. Worley said that the Proposition 400 requirements for public comment periods were specified through a resolution of Council. During that process the staff compiles all of the comments received in relation to an annexation. Some time after the end of the 60-day comment period staff is to step before the Council and read into the record a synopsis of those

comments. Along with those comments, there are several other items associated with the project and the development group would like to speak to Council as well. Mr. Worley then read into the record the synopsis as follows:

- ◆ *More detail needs to be included in the Master Plan, including location for park and the identification of the school site for possible higher education facilities.*
- ◆ *A critical issue in determining if the annexation will benefit the city is the analysis of the infrastructure needed versus additional revenue the city will receive.*
- ◆ *Who pays for the remainder of the Side road interchange cost? When do they pay that cost?*
- ◆ *Potential impacts on motorists, pedestrians and bicyclists need to be better explored and discussed.*
- ◆ *Great emphasis on regional land use planning is necessary to evaluate the impact on the antelope habitat that will be affected by roads and development.*
- ◆ *Roads should be the last consideration after all other factors have been considered.*
- ◆ *The developer should consider higher density to preserve more open space.*
- ◆ *More efforts are needed to evaluate the impact of this development on antelope habitat.*
- ◆ *Open space areas should be reviewed for functionality, not just size or lack of development potential.*
- ◆ *The Peavine Trail needs to be protected or even enhanced as a part of this project.*
- ◆ *More information is needed on the Cost/Benefit analysis.*
- ◆ *The Plan provides for quality development.*
- ◆ *Consider a higher density development.*
- ◆ *New development should pay for itself. Don't develop for short term gain.*
- ◆ *Support for Proposition 400 and its aim to invite public comment. "Current and past leadership on the local level has resisted such accountability."*
- ◆ *The annexation and the proposed development should be supported.*
- ◆ *The conceptual plan anticipates quality home sites, significant open space and connectivity. The anticipated density is nearly 75% lower than that provided by the City's General Plan.*
- ◆ *The conceptual plan allows for the potential for workforce housing.*
- ◆ *The conceptual plan is protective of the Love Field Flight corridor.*
- ◆ *Mr. Fann has demonstrated personal integrity, professional capability and civic minded character.*
- ◆ *Philosophically, the city needs to continue to grow in a quality manner.*

Mr. Worley said that they did receive some comments that came in later in the process and those are as follows:

*Mr. Brewster, in view of the atrocity perpetrated on the City by SunCor Phases II, III and IV in the Pinnacles at Prescott Lakes, under no circumstances should mass grading in a residential area be permitted. Also, as expected population increase caused by the development apparently warrants the provision of a police and fire station as indicated on the development, the developer should be required to pay for the construction of suitable buildings.*

Mr. Worley said that he believed that the Council also received comments today from Jim Lawrence in relation to a number of aspects to the development, which boils down to the need to consider that the proposed development in nearby areas may likely be more in line with what Mr. Fann has proposed as opposed to what is shown in the City's general plan and therefore, the impact analysis may be incorrect as far as sizing of infrastructure.

Councilman Luzius then read into the record another letter from Roy Martin, dated October 7, 2007. *"The recently proposed annexation has brought much concern to me and my household. I feel that this partially-defined development should be totally responsible for all of the infrastructure to satisfy its requirements and the City has no business in financial sponsorship at all. If in the future some other party wishes to tap into the infrastructure, the developer should recover some of its costs, without the City involvement. I called the economic development department and the economic development department gave me the number of 33,857 homes in a 10-mile radius. If you divide the \$24 million that the city is suppose to be bonding for, for the infrastructure, it equates to \$708.86 for each home. Why should I be willing to pay out that money and how would I benefit from it? If the city does bond, of course the cost would be more. As councilmembers and Mayor you took an oath to faithfully and impartially discharge the duties of the position of councilmember/mayor to the best of my ability so help me God. There should be no loose, unidentified areas in the contract, thus avoiding future litigation. What is the big rush? Let's be sure of what the real magnitude is first."*

Mr. Worley said that from staff's perspective they have no further comments at this time. They do have answers to the questions asked at the last meeting, and those have been included in the staff report.

John Danforth said that the compilations of comments provided in the packet did not address the comments he submitted in writing at the October 2, 2007 meeting.

Mr. Worley said that the compilation of comments he just read were in response to those received within the 60-day public comment period. Those comments in response to last week's meeting were addressed separately. Mr. Danforth said that his comments were still not addressed.

Mike Fann said that he would not be able to attend next week's Study Session and he thought the Council and the public may like to hear from the owner, not just the owner's agent. Sometimes he wonders why he bought the property. He thought they had an opportunity to do something really great for the community. He challenges anyone that loves the community more than he does.

Mr. Fann said that the issues addressed last week were good issues. One comment was made that the annexation should not occur, and someone else commented on the attitude that "if you build it they will come." He said that they are coming. His family moved to the area in 1958. This town has always grown; it's always been a desirable place to live and they all know that. They don't build subdivisions to entice people to come to the area; they build them because people are coming and they want planned, good development, and unauthorized land splits. They don't want people building outside of the community. If they don't annex, they don't pay for those services that the people coming into town are going to consume. He guarantees that not all of the crime occurring in Prescott is by people living in the City, but some come in and they have to recognize it and pay for it.

He said that although he is having some cattle grazed on the property right now, that cannot go on indefinitely. He has to do something with the property. It will be developed and there will be homes built on it. Those homes will consume water from the aquifer; the question is how it will be developed, whether it's in the County, the City of Prescott, or some other community.

Mr. Fann said that he thinks that their plan is good; however, the only way for that plan to move forward is through annexation. The alternative of it moving forward without annexation leads to a lot of negative things—no dedicated open space, no sales tax, impact fees, permit fees, etc. for the City of Prescott; potentially no paved roads; potentially no dedicated public easements; exempt wells instead of water systems; septic tanks instead of a sewer system.

He said that in considering those issues, hopefully everyone sees the benefit of annexing. The question becomes what the cost is of annexing. He thinks that question is easy to happen in comparing the "if annexed" with the "if not annexed."

Looking at the costs, Mr. Fann said that major costs to the City of Prescott are the building of a traffic interchange on 89A, and improving water and sewer service to the northwest corner of the property. Both outside consultants (Lima & Associates and Carollo Engineers) concluded that the impact that this property has on those facilities is a little over 20%; the rest goes to the benefit of citizens and others. Staff told them last year, before the annexation became an issue, that the traffic interchange has to be built under an IGA with the County, and under the settlement agreement with the Country Dells property owners. Staff also came to the Council last year, talking about the water and sewer improvements needed to improve water flow and pressure south of the Airport in the same vicinity. A large portion of the water improvements has to be done.

With regard to the Development Agreement, a comment was made that they might have to do the improvements and the project may never be annexed into the City of Prescott, but the DA says that it becomes operative at such time as all annexation proceedings are final. The commitments to the City to build any improvements only become necessary after annexation.

He said that another comment was made about the City having all the requirements, and the property owner doesn't have any, other than giving back water after 15 years. That isn't true.

Mr. Fann said that there are ten areas stating that the "owner will" or "owner shall":

- 1) The owner will provide the dedication of two one-quarter acre well sites to the City, at no cost (an equitable exchange for each other).
- 2) The owner will provide the dedication to the City of a one-acre water tank storage site.
- 3) The owner shall be responsible for all on-site water transmission facilities and sewer facilities.
- 4) The owner shall dedicate on the final plat to the City a right-of-way a 100' wide in the approximate location of Dells Ranch Road.
- 5) The owner shall dedicate a right-of-way 120' wide for Granite Dells Parkway.
- 6) Owner shall construct at owner's expense Dells Ranch Road in accordance with City standards and Granite Dells Parkway in accordance with City standards. That is a \$21 million parkway that the owner is responsible for building. There is currently a paved road (Old 89A) that if he develops it as is, is fine for his development, but there are significant improvements required for through traffic.
- 7) The owner shall be responsible for all on-site dry utilities.

- 8) The owner shall offer for sale to Prescott Unified School District the property for a period of one year. They can go past that one year. They have to put some limit on it so they can plan for the development.
- 9) Owner shall offer for dedication to the City a two-acre parcel of property for police and fire purposes. The reason for the sixty days is the same as with the school. They need to know if it is needed, and where it will go. They are not charging for it; it is part of the deal, but they need the City to decide if they need and, if so, where they want it.
- 10) Mr. Fann said that with regard to fire flow, very little is required for the development as part as delivery. As the property develops they will be communicating on what the needs are. Initially, if the fire flows aren't there for the development, the Owners shall be responsible for providing adequate fire flow for owner's commercial development.
- 11) All recharging credits resulting from the recharge effluent generated on the property belong to the City.

Mr. Fann said that the City Attorney's comments on the DA have been a sticking point. Although they are working on that language, ultimately because of a philosophical difference, the Council will be saddled with a tough decision and he asked whether it was worth moving forward, understanding that the City also has responsibilities and time frames associated with those. Without adequate access and without delivery of water and sewer, he's dead; he cannot sell one piece of property, once he's annexed into the property. If he is not annexed, he doesn't need it. Because of that, he needs a DA that says that will be timely performed. The discussion has been of specific performance, in other words if the City fails to move forward with those timely improvements, the only thing he can get from a judge is to make the City do what they promised to do in the first place. In the meantime, he could be out the ability to move to forward, and he could be out millions of dollars. The only recourse for him is for the judge to tell the City to do it. He said it is not fair to make him sign an agreement like that and it is a deal killer.

Councilman Lamerson said that he likes to speak face to face with someone and he appreciates his coming before the Council to discuss the issues. He said that it is no secret that he is committed to have this property annexed into the City. It is good for the City and for Mr. Fann. The City stands to lose more if the property is not in the City than they stand to gain if it is developed outside the City. He does respect the City Attorney and he listens to him. Hopefully Mr. Fann and the City Attorney can work through the language differences and do what is necessary.

Councilwoman Suttles said that they have been able to do some things this week through the attorneys, but she thinks the biggest issue is the infrastructure he wants the City to have in so he can begin to sell his lots. She asked if they weren't looking at a huge amount of money to do that. Mr. Fann said that is step one; without water and sewer and once he's annexed, he cannot do a thing without it. She knows in his own business that there has to be some give and take. They got a letter in recently asking if some of the improvements could be phased in. Mr. Fann said that he believes that the City and the developer have both been looking at that, specifically with the traffic interchange. That issue ties in with what Mr. McConnell said last week that there needs to be communication as the property develops, so they're not wasting money.

Councilwoman Suttles said that Mr. Fann made a comment that the City has to do the interchange, but it is his development that is moving up that time line. Mr. Fann said that the June 1 date in the DA is not magic, it coincides with the other agreements.

Councilwoman Suttles said that she thinks it can work, but it has to be both parties a little unhappy with what the other is getting. Mr. Fann said that he's relatively unhappy right now.

Councilman Blair said that he didn't want people to forget about a huge development that came to the Council in 1998/1999 called Prescott Lakes. That was a huge thing, and there were some unhappy people on that development team as well as the City of Prescott, but had it not been for the struggles they went through with Prescott Lakes, Inc. and the City of Prescott, they would not have Smoketree, Blooming Hill, Rosser, or half of the stuff they have out there without participating from both willing parties. His vision is to have this property in the City of Prescott so they have some say about it. He said that he has a letter in front of him complaining that there is not enough open space along Peavine, but if it is developed in the County, they will have no say about it.

Councilman Blair said that if the City Attorney and the developer's attorney cannot get the wording straightened out, then they don't belong sitting and talking about it, but he does believe it should be part of the City and fulfills a lot of the infrastructure needs the City will have in the future.

Councilman Lamerson said that he has lived in Prescott a long time. There was another huge dilemma where the sky was falling, the Mall. The question at that time was whether the community was better off with or without that mall. The people in the community understood what that mall meant if it didn't happen there, and it happened some place else. Year after year that mall has provided the opportunity for the citizens to get the basic services they want. It is incumbent on everyone on how they handle

this. He wants this in Prescott; he doesn't want them in the County some place developing by someone else's standards, with all of them coming into the City with the citizens of Prescott paying for it all.

Councilman Luzius thanked Mr. Fann for his presentation. He said this is something that needs to happen and it is a good thing for everyone. He wants to make sure that the citizens are looked after and not taken advantage of to develop his land, and he hopes the attorneys can come together and give the Council an agreement that they can live with.

Jack Wilson said that he supports doing the annexation. He also appreciates the comments made by legal and the departments. He's invested in real estate for 40 years and there's a saying he has, "Lawyers are deal breakers, they are not deal makers." He appreciates the comment from Councilman Lamerson—let's do this face to face. He suggests that they get Mr. Fann and the principals from the City in the same room, with the lawyers as backup, and work this out.

Howard Mechanic said that when he talked to Mr. Guice a few days ago, he said he would have a response to all of the comments made last week. As Dr. Danforth mentioned earlier, he did not see responses to his points. He made eight points last week and gave them to the City in writing to the Clerk and staff. There were two responses to his eight issues. The public and Dr. Danforth deserve a response to his points.

Mr. Mechanic said that he would like to see this annexed. The question is what the final deal is going to be. Hopefully the public and the Council will have a couple of weeks after the final deal is worked out before rushing to a vote. The other issue brought up was the Peavine Trail. It is an important issue. He's not saying that it is a deal breaker, but that shouldn't be the way that Council deals with things. The City has to take the proactive approach that they want some things.

Mr. Mechanic asked Mr. Fann if he could sell lots before all the water infrastructure was in place. He asked if that meant they couldn't accept a phased water infrastructure and couldn't sell lots.

Jason Gisi said that the phasing of the development of the property is something they can do and can live with. What Mr. Fann's point was is that the water and sewer infrastructure has to come off of the northwest corner of the property, by Centerpointe East. If the developer is starting on the northeast corner of the property, which is where they intend to start the phasing, with the workforce housing, they need to pull all of that infrastructure, sized properly for the development, from one corner to another, one and one-half miles. That is a significant investment. They

can work through phasing of water and sewer as possible, which will be done through communication.

Clinton David said that the incumbents on the City Council cannot wait to give away the City's water. He asked what the hurry was, and why they cannot wait until the new Mayor takes his seat and wait until they see if Steve Blair retains his seat, and wait and see if the current recession is over and the housing is back up where it is without the housing problems. It seems that what is going to happen is the property will be annexed, the City will put millions and dollars into water, sewer, roads and then there won't be anyone to buy the houses. It will be years before the City gets their money out of it. He said that Prescott doesn't need workforce housing; the median value of houses in Prescott is lower than that in Prescott Valley. There are 42 mobile home parks. If someone wants a low-cost house, there are 42 mobile home parks. The Council set aside a lot of money for workforce housing that is not needed; they cannot wait to get rid of the water.

Bill Feldmeier said that he has lived in the City for 34 of the 35 years of his residency in Yavapai County. First, he came to speak on behalf of the Boys and Girls Clubs, and he's thankful for that vote, and second to support the annexation. He said that he is really offended by Mr. David's personal degradation of people that work for a living in the community. He can remember when there was nothing but mountainside where Mr. David lives. He doesn't remember in those early days people coming to the Chambers to beat up those that were about to move here. They used to be known as "Everybody's Hometown" now what he's hearing is that they're "Somebody's Hometown" and it is offensive and an attack on the working people in this community and throughout the County.

Mr. Feldmeier said that this annexation is important for the City because that growth is going to take place; they all know that. It is going to happen inside the City, inside Prescott Valley, or inside Yavapai County one of two ways. Either it's a project that goes through their Planning and Zoning Commission and Board of Supervisors, or it gets lot split, but people are going to occupy that land. As a City resident, it is best for the City because the applicant wants to be here, and it is the City's responsibility and the responsibility of the developer to iron out those details. If they need someone to draw it up, he'll volunteer.

George Seaman said that he is very much in support of Mr. Fann's project. That said, he also needs to acknowledge that there is a big money issue having to do with taxes. That is why he sent the letter asking about a phased process for infrastructure so that the annexation is not encumbered with infrastructure that the annexation doesn't need. An example is the roadway going through the middle of the development, if

they would deed it, but not necessarily build it until it was needed. That would protect the rest of the citizens and their tax base. That is the dilemma. Probably 90% of the people in the City would acknowledge that having it lot split with all of the loss of open space, and everything that goes along with that, is not as good as annexing and having a planned community.

Councilman Blair said that they talk about phasing; on the same note they did that with Prescott Lakes, with “triggers.” Once they hit a certain place it “triggered” a different development phase.

Ed Burdick said that in reviewing the well-planned development, it appears to be an outstanding project, but there are factors to be considered. In the initial cost analysis the factor of infrastructure was not put into the equation as an ultimate benefit to the City, which he thinks is an important issue. In addition, Mayor Simmons earlier mentioned “the devil’s in the details.” He thinks that before a vote is taken, they need to see what the details are ironed out and at that time, come to a vote, rather than rushing it through.

Leslie Hoy said that last week she asked two questions and she was told she would be given the answers this week. First was in the cost benefit analysis of September 27, the cost of the interchange was not included and she was told that would be reconsidered because Mr. Fann’s part of the interchange couldn’t stand alone. Mr. Nietupski said that all of those questions were answered on the sheet included in the packet.

He said that the reason the \$21 million was removed was because that is the estimate of the full cost of the Side Road Traffic Interchange, which is a regional facility serving others other than just Granite Dells Estates I and II. The City is obligated under two separate agreements to build the Side Road Interchange, regardless of the annexation occurring. Based on the traffic impact analysis, Fann’s proportionate share of the interchange is \$4.62 million, which is offset by the full construction of Dells Ranch Road with oversizing, and Granite Dells Parkway. The current plan is for phased construction of the interchange. Funding for the interchange is from the one cent sales tax for streets and open space, with financial contributions expected from Yavapai County and Country Dells property owners.

Ms. Hoy asked if that is funded through the one-cent sales tax, if there would be anything left from that fund to work on the local streets. Mr. Nietupski said that the City has a five-year CIP that they budget for all sorts of road improvements in the City. This is one project in that CIP.

Ms. Hoy said that last week she also asked how the bonding for the water and sewer infrastructure would impact the City's ability to bond for other projects, such as the proposed pipeline. Mr. Woodfill said that is also in the packet. Bonding for water projects is based with MPC bonds, the limit of which is based on the amount of debt service coverage, which can be done out of the operating revenues. With these projects being part of the capital plan they will not reduce the debt capacity of the City to prevent the City from doing the other needed projects.

Ms. Hoy said that she understood Mr. Fann to state that the interchange and water infrastructure were to be made anyway and therefore the City is trying to arrange for Mr. Fann to pay for part of that, which would make sense. She asked if that was correct from where the Council sits. Mayor Simmons said that the interchange was already committed to. Mr. McConnell said that there has been considerable discussion today about phasing of infrastructure, whether it's streets or utilities, and the approach for providing the infrastructure, should the property be annexed, does contemplate phasing. Specifically, as pointed out earlier, the Side Road interchange is planned to be developed in phases. The primary reason for that is because of the uncertainty of the lands north of 89A. While the footprint of the interchange may be quite large, only part of it is going to be constructed in the first phase.

Mr. McConnell said that, similarly, with regard to water infrastructure, the five-year CIP of the City is available within the budget and it shows the various projects which can be sorted into two categories, or phases. The current draft of the development agreement affectively recognizes the initial package of projects within the existing CIP. The Development Agreement considers that and tells Mr. Fann that the City is doing this work and what he would have available. In order for the City to achieve that, the City will do the first package of infrastructure projects. The projects are being phased; they are being financed from revenues which exist now. The revenues, pointed out last week, come out of separately accounted pots. There has been a considerable amount of work done in phasing and financing for the infrastructure for this project. On the other hand, it is requiring the participation of Mr. Fann if he is to bring his project into the City, which is the way that annexation and new development occurs.

Ms. Hoy said that one of her concerns, when looking at the cost benefit analysis, is in the projections it relies on impact fees being increased regularly. There isn't apparently an automatic inflator for water and sewer, although some of the others that would be required, which are shown increasing by 2.9%. If the Council failed to increase the impact fees regularly, that would affect how the cost benefit analysis is going to turn out in future years.

D. Approval of Settlement Agreement for Mapes v. City of Prescott.

Mr. Kidd said that this is a proposal to settle a lawsuit, where the City has been in federal court for a couple of years involving the ADA and Federal Fair Housing Act. It involves a variance denial, with an appeal from the Board of Adjustment into Federal Court based upon the Federal Fair Housing Act, which really wasn't argued. Staff believes that the settlement being proposed is reasonable and they request that the Council consider it.

**COUNCILMAN BELL MOVED TO AUTHORIZE THE MAYOR AND CITY ATTORNEY TO ENTER INTO A SETTLEMENT AGREEMENT AND PAYMENT OF \$75,000.00 AS SETTLEMENT OF MAPES V. CITY OF PRESCOTT; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

E.\* **Public Hearing and consideration of a liquor license application submitted by William Lawrence Gogan, agent for Monsoon on the Square, Inc., for a new Series 12, Restaurant, license for Monsoon on the Square, located at 200 East Gurley Street.**

Ms. Burke apologized that this item had not originally been on the agenda, and also to the applicant for having to sit through such a long meeting. This is an application for a new Series 12, Restaurant, license for Monsoon on the Square, located at 200 East Gurley Street. The property was posted and staff has received no comments. Mayor Simmons said that he has heard some really good comments about their service.

Mr. Gogan said that he has been operating the restaurant for a little over 2 ½ years and on some level it is frustrating that he had to go through the process. There is a one percent human ownership change which required this process, through State regulations. He said that 14% of their sales are in alcohol. Out of 100 seats, they have four bar stools. They have always tried to do the right thing by the state, by the City and by their customers.

**COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.**

Councilman Luzius said that he is sympathetic to the applicants plight; however, the application is not completed properly and he's a stickler for that. He has nothing against the operation, but he will be voting no because the application is not complete.

**COUNCILMAN LAMERSON MOVED TO APPROVE STATE LIQUOR LICENSE APPLICATION NO. 12133390 FOR A NEW SERIES 12, RESTAURANT, LICENSE FOR MONSOON ON THE SQUARE, LLC, LOCATED AT 200 EAST GURLEY STREET; SECONDED BY COUNCILWOMAN SUTTLES; PASSED 5-1, WITH COUNCILMAN LUZIUS CASTING THE DISSENTING VOTE.**

F.\* Move into Executive Session.

**COUNCILMAN BLAIR MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

The Prescott City Council recessed into Executive Session at 4:55 p.m.

#### **VI. EXECUTIVE SESISON**

A. Discussion or consultation for legal advice with the attorney or attorneys of the public body, pursuant to ARS Section 38-431.03(A)(3)

1. Development Agreement with Granite Dells Estates.

#### **IV. ADJOURNMENT**

The Regular Voting Meeting of the Prescott City Council held on September 25, 2007 reconvened into Open Session at 5:20 p.m., at which time it adjourned.

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ROWLE P. SIMMONS, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Joint Study Session/Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 9th day of October, 2007. I further certify the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2007.

AFFIX  
CITY SEAL

\_\_\_\_\_  
ELIZABETH A. BURKE, City Clerk