

PRESCOTT CITY COUNCIL
STUDY SESSION
PRESCOTT, ARIZONA
FEBRUARY 19, 2008

A STUDY SESSION OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, FEBRUARY 19, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

CALL TO ORDER

Mayor Wilson called the meeting to order at 3:00 p.m.

INTRODUCTIONS

INVOCATION: Pastor Troy Powers, Prescott Free Methodist Church

Pastor Powers gave the invocation.

PLEDGE OF ALLEGIANCE: Councilman Bell

Councilman Bell led the Council and audience in the Pledge of Allegiance.

ROLL CALL:

PRESENT:

Mayor Wilson
Councilman Bell
Councilman Lamerson
Councilwoman Lopas
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

ABSENT:

None

SUMMARY OF CURRENT OR RECENT EVENTS

City Manager Steve Norwood reported that staff is still moving forward with the airline carrier between Prescott and Los Angeles. They have had a hitch with the other partner, but they hope to have something back before Council by the end of the month.

Mayor Wilson reminded everyone that the initial meeting of the Prescott 2050 Visioning will be held on Thursday at the Prescott College Crossroads Center and the public is invited to attend.

I. PROCLAMATION

A. February 22, 2008 - *World Thinking Day – Girl Scouts*

Councilwoman Suttles read the proclamation proclaiming February 22, 2008 as *World Thinking Day* and presented it to John Schultz with the Girl Scouts.

II. DISCUSSION ITEMS

A. Adoption of Resolution No. 3880-0848 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City Manager and all City Department Heads to apply for grant funds up to \$20,000.00 providing that such application does not necessitate the City providing matching funds in excess of \$20,000.00 without prior Council approval and authorizing the City Manager and City Department Heads to accept grant funds up to \$20,000.00 without prior Council approval providing that such acceptance of grant funds does not necessitate matching of funds in excess of the City Manager's and/or City Department Head's procurement authority as set forth in the City Procurement Code.

Emergency Services Director Darrell Willis said that this item deals with a resolution that will authorize the City Manager and/or department heads to apply for federal grants up to \$20,000. Currently grants require Council action. Over the last few months there have been some come before the Council that were small amounts. He said that currently the Procurement Code allows for the expenditure of funds up to \$20,000 by City Manager approval and they would like to bring the grant funding policy in line with that provision. Additionally, he said, this will provide for time-sensitive grants that cannot move through the current process.

Councilwoman Suttles asked the City Manager how the Council would be aware of grants being applied for, and those accepted. Mr. Norwood said that they could communicate that writing when they have applied, and could bring it back to the Council when accepting. He said that sometimes they have a week or two's notice to get the applications in.

Councilwoman Suttles said that he has no problem with it; she thinks it is a great housekeeping step. She would like to know, as well as the citizens, if they are applying for a grant, but a written communication would be fine.

Councilman Lamerson said that he can remember a time frame not too long ago when this country endured Katrina and at that time they discussed grants. At that time, he said he did not support grants. He said that this reeks to him a little because they are not talking about solely public health and safety issues. He said that he does not think the City's

staff should be applying for every grant available. The country and the state are in an economic crunch. He does not have a problem with tax dollars coming back to them for health and safety, but just to say apply for any grants, he does not support it.

Mr. Willis said that one of the things that department heads have to do is determine a budget. Just because there is \$20,000 available to the department, it doesn't mean there is that capacity in the budget, so they have to plan ahead a little. They have some general knowledge of those grants, so they put the capacity in the budgets for those kinds of things. What they are talking about is those special FEMA things that come through on health and safety that would require some immediate action, and they lose the timeline. Councilman Lamerson said that is not what the resolution says. If the wording said that, he would support it.

Mayor Wilson said that he supports the objective of raising this to \$20,000 to give the City Manager the ability to go after grants. He would expect that the team will exercise its judgment on which grants to go after. He does not think they live on public health and safety as their only thing in life; there are things beyond that, but he would expect due diligence to be exercised.

Councilman Roecker asked if they could make it restrictive to grants that cannot fit into the normal process. Mr. Kidd said that they could rewrite it if directed so by the Council. He said that they recently had a police grant for \$600 and the Council directed staff to come back with something to get rid of these smaller ticket grants, and make it more in line with the City's Procurement Code.

Councilman Luzius said that he feels that if there are some small grants out there, they should take advantage of them. He said that since they are operating under the Procurement Code, he would want any work that is being done under a grant to be done by a licensed contractor.

Councilwoman Lopas said that she thinks that any grants they can go after makes sense. If they don't go after them, another community will get them, and she supports the resolution.

Councilwoman Suttles asked for clarification on the licensed contractor requirement. Mr. Norwood said that would be fine if it is licensable work. There are some things that would not have any license for.

Mayor Wilson asked how that relates to the agenda item. Councilman Luzius said that they were referring to the Procurement Code. Mr. Kidd said that it is consistent with the Procurement Code.

Councillman Lamerson said that he would like this not to be on the Consent Agenda. He said that he is hearing that staff would like an open opportunity to go after any and all grants, regardless of the consequences on the City's budget. He has no problem if it is related to public health and safety. Mr. Norwood said that they have not done that; they don't pursue grants at any and all regard of consequences. This is something they did at the Council direction to make this streamlined. He said that if it doesn't fit into the mission of the City, they don't do it.

Councilman Lamerson said that he appreciated those comments and appreciated his diligence with regard to pointing those things out, but they hire grant writers for all kinds of things anymore, and the point is the Council still sets the policy and the staff implements the policy. He supports the majority of the Council. He does not want it on the Consent Agenda as he thinks it warrants a little more discussion.

B. Approval of an Aviation Ground Lease for approximately 1.19 acres at Ernest

Airport Manager Ben Vardiman said that this item is a request for approval of an aviation ground lease at the Airport. He said that the airport went out to RFP for the purchase and relocation / refurbishment of 21 City-owned portable T-hangars. They are similar to fixed hangars, except they can be moved easily. They usually don't have electric, water, etc. They had two proposals, and 2251 Ruger was the most favorable bid. Under this lease the Lessee will pay \$21,000 for the units and will relocate them on another portion of airfield and pay a ground rent of \$.35/sq. ft. once they receive their Certificate of Occupancy. He said that it is a 25-year lease with one ten-year option, subject to annual CPI adjustments, and there will be an additional rate adjustment at the end of the 25 year term before they go into the ten-year option.

Councilwoman Suttles asked if the 25-year term was a standard time frame. Mr. Vardiman said that it was; it has been the standard ground lease time frame for the airport leases over the past few years.

Mr. Vardiman said that these hangars were originally purchased by the City in 1983. They have become a huge maintenance burden for City staff, and this is an opportunity for privatization.

Councilwoman Suttles asked if they would then become the landlord and if the lessees had a problem they would work directly with them. Mr. Vardiman said that was correct.

Councilman Luzius asked if they were renting these now, and for how much. Mr. Vardiman said that the smaller units are around \$150 per month, and there are 21 of those, so it would be around \$36,000 a year.

Mr. Vardiman said that they are selling them for \$21,000 because that is the value of the steel. If the City was to refurbish them the project cost would run between \$600,000 and \$700,000. Councilman Luzius asked what the cost was going to be for the City to install the fire hydrants.

Mr. Vardiman said that it is around \$1,000 per hydrant. He said that they are not new ones, they are relocating the existing hydrants. In addition to providing service protection for this facility, they will also provide for a new facility, the North Ramp Portable T-hangars.

Frank Creelman, 1335 Tumbleweed, Chino Valley, said that if they take in \$3,000 a year profit, and it would only cost them \$6,000 to fix them up, they would only lose two years' rent. It was clarified that it would be \$600,000 to \$700,000 to relocate and refurbish.

Kenton Jones, attorney for 2251 Ruger, said that one of the things in the course of addressing the money issues that was dropped out of the equation was that there is going to be rent paid. There is the purchase of the hangars, which is the fixed cost of the actual asset (\$21,000) and they will then pay a monthly rental amount that will compensate much more than just the \$21,000, plus they will be incurring the costs of renovation.

Councilman Luzius asked Mr. Jones if he felt this was a good deal for the City of Prescott. Mr. Jones said that one of the problems at the Airport is the availability of hangar spaces. These will be put onto leased property where they will be condominiumized, so there is incentive in the owners to keep them upgraded at their expense, and it will continue to make them available, and there will be a lease return to the City. He thinks it is a win/win.

Mr. Vardiman said that the ground lease is 1.19 acres, and by relocating this facility it will free up 6 acres at \$.35/ft. per year, so that is a side benefit.

- C. Authorization of Amendment No. 1 to City contract #2008-067 which authorized an Airport Ground Lease agreement between the City and Legend Aviation for approximately 7.17 acres of airport property at Ernest A. Love Field.

Mr. Vardiman said that this is a request for Amendment No. 1 to Contract 2008-067 with Legend Aviation for a ground lease agreement. This request has come forward for the purchase of the City-owned improvements at the Arizona Aircraftsmen site. The City had constructed those improvements and as part of the RFP negotiations for the fueling component of the City's operation, it was discussed that the proposer would purchase the improvement for \$260,000. He said that this is just to clean up the language and apply it to the appropriate lease document,

instead of running it into the fuel document. The entity has already paid the \$260,000.

Councilman Luzius asked what an FBO proposal is. Mr. Vardiman said that is the Fixed Base Operation proposal that came before the Council back in December.

- D. Adoption of Ordinance No. 4630-0832 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the zoning of certain property within the City of Prescott located generally south of Rosser Street and west of S. Blooming Hills Drive and described as Open Space Tracts A, B, C, and D of the Cloudstone Unit 1 Planned Area Development Subdivision from Single Family-18 to Natural Open Space and Recreation Space Zoning.

Community Development Director Tom Guice said that this is a rezoning of parcels identified at the Cloudstone Unit 1 platting process, as appropriate for open space. It is a housekeeping item. As a condition of approval, Areas A, B, C and D were set aside to meet the 25% open space requirement.

He said that the proposal is to rezone A and B from Single-Family 18,000 sq. ft. zoning to Recreation Open Space and the larger C and D from the same SF-18 to Natural Open Space. The Planning and Zoning Commission recently considered this and unanimously recommended its approval.

Councilman Luzius asked if there would be hammerheads at the end of the roads. Mr. Guice said that there would be; the construction drawings do show them, but the map before them does not.

Mayor Wilson asked for clarification between natural and recreational open space. Mr. Guice said that very little can be done on Natural Open Space; Recreational Open Space would allow for landscaping, mitigation, gated entryways, etc. as well as a park.

- E. Approval of Amendment No. 2 to Development Agreement No. 2002-166 with Goodman/Savage Development for Cloudstone located on the southern extension of Blooming Hills Drive south of Rosser Street.

Mr. Guice said that this item relates to Cloudstone, although it is a different unit and developer. The Development Agreement spelled out various responsibilities and this is a request by the owner of Units 2 and 3 for a date extension for completion of that portion of S. Blooming Hills, south of Rosser. Under the original agreement, the completion date was to have been December 2007 but for market reasons, they are asking for December of 2010. There is a representative present for any questions.

Mr. Guice said that staff is recommending approval of the request with two additional conditions: 1) State Street off of Rosser would not be used for construction ingress/egress and 2) no permits would be issued for custom homes or townhomes until S. Blooming Hills was completed, dedicated and accepted by City.

Mayor Wilson asked if there was any impact in not doing this at this time. Mr. Guice said that they are past the deadline date for completion. There are certainly short-term and long-term impacts, but in context of not having it done at this time, they are really at the mercy of the developer and their request. Mayor Wilson said that he does not like being at the mercy of the developer. He asked how they would know if it actually gets done if an extension is permitted. Mr. Guice said that they wouldn't, other than staff would continue to work with the developer in processing.

Ernie Fable, representing DFG, said that he cannot give a personal guarantee, but they're asking for an extension on this because of the market. They did not buy the land to not develop it.

Councilman Luzius said that he believed they were entertaining reconstructing Rosser because of damage from previous construction sites. He is wondering when this would be done, and asked if they are making provisions so that in the future they can actually charge the developers for damage done to the roads.

Mr. Nietupski said that there was a design contract recently awarded for improvements to Rosser and they are proceeding with that. It will be budgeted in the coming year for construction. They have not concluded a recommendation with regard to damage by commercial vehicles on public streets. It is difficult to enforce if they were to implement an ordinance.

Councilman Luzius said that he is concerned given the budget constraints that they continue to allow use by the heavy trucks. Police Chief Randy Oaks said that they do have one officer in the Prescott Police Department and they have ordered portable scales. In addition, a truck was recently purchased and equipped. That officer is capable of stopping a vehicle and doing an inspection, and those citations get very pricy. Some of it does come back to the City, but they do have a mechanism to follow up on overweight vehicles.

Mayor Wilson said that Mr. Behnke's previous initiative included something to address that damage and perhaps they could take a look at those provisions.

F. Bradshaw Senior Community:

Mr. Guice said that this is a project that the Council is familiar with, and site plan approval was a condition of zoning. He then presented Phases 2, 3 and 4, with a total of 172 units at build out, noting that Phase 1 was previously approved. He said that the Planning and Zoning Commission unanimously recommended approval of the site plan. He spoke with the architect 1 ½ hours ago and they were not going to be able to be at the meeting, and they asked that if the Council would keep it off of the Consent Agenda, they would like to make a short presentation next week.

Mayor Wilson asked if there were any comments at the neighborhood meeting. Mr. Guice said that his understanding was that they had three neighbors attend and they were favorable, in fact Mr. Jim Judd, one of the closest homes to the project, was at the Planning and Zoning Commission meeting and spoke in favor of the project.

1. Approval of Site Plan for Bradshaw Senior Community dated January 11, 2008 with conditions. (SI07-003)
2. Approval of Water Service Agreement with Bradshaw Apartments/Prescott LP for 60 apartment units for 21 acre-feet of water annually. (WSA08-003)

G. Approval of Revision of Plat to Pinnacle III trail alignment with conditions, located north of Solstice Drive and east of St. Enodoc Circle. (RP08-003)

Eric Smith said that this is a revision of plat to approve a trail alignment. He said that the developer is Sun Cor and the property is located in the Prescott Lakes Master Planned Community. He said that Sun Cor has been very cooperative at allowing them to abandon an original trail easement and grant a new one to the east. The reason for this is that this new alignment will connect the ten-acre park, Vista Park, up to a ½-acre park at top of the mesa, and the trail is to be called the Panorama Trail. He said that it would be limited to hikers and runners because of the steepness of the terrain.

Mr. Smith said that Josh Cruthers of Sun Cor was in the audience for any questions they may have.

H. Approval of a Downtown Management Agreement with Prescott Downtown Partnership for 2008.

Ms. Bristol said that this is the annual agreement between the City of Prescott and the Prescott Downtown Partnership for 2008, and before they looked at the agreement the PDP would like to give an update.

Steve Stazenski, President of the Board of PDP, then gave a PowerPoint presentation to review:

2007 Accomplishments

- ▶ Rodeo Days Fine Arts & Crafts Show – Major Funding Source
- ▶ Downtown Kiosks – 3 in place
- ▶ County Contract for Permitting & Monitoring Plaza activities
- ▶ Membership Activities
 - ▶ Coordinated decorations for the building and grounds
 - ▶ Christmas Light Decorators
 - ▶ Cable One
 - ▶ UniSource Energy
 - ▶ APS Retirees
 - ▶ A&B Sign Company
 - ▶ Yavapai County
 - ▶ Prescott Chamber
 - ▶ Festival of Trees

Councilwoman Suttles said that she did not see the City of Prescott listed as contributing to the lighting. Mr. Stazenski clarified that the list was of those people involved with coordinating the decorations, not funding them.

- ▶ Downtown ornaments – with proceeds going to the Courthouse lighting
- ▶ Collector's paper weight
- ▶ Holiday Light Parade
- ▶ Old West Oktoberfest
- ▶ Sidewalk Buttlers – 16 units already in place with 20 more ready to be installed
- ▶ Acker in the Park
- ▶ New directional sign on SR69 – grant
- ▶ New Marina-Gurley Welcome Baner
- ▶ Plan of Work – 2008 focus on membership
 - ▶ Potential for coop advertising campaign
 - ▶ Devise strategy for encouraging locals to shop downtown
 - ▶ Test waters for stores to remain open one evening a month
 - ▶ Continue to focus on creasing membership numbers

Mr. Stazenski said that he thanked the Council for the opportunity to update them.

Frank Creelman, 1335 Tumbleweed, Chino Valley, asked how soon they can get the Buttlers out in front of Matt's. He said that they should start writing tickets to those not using them.

Ms. Bristol then reviewed the agreement, noting that it is derived from the vendor fees on the Plaza during the year—60% of the \$25 fee that the City assesses, and this year that amounts to \$15,525 that would be shared with PDP to help fund their manager's position. For this the City continues to be part of Main Street Program, with that organization operating that function for the City.

Ms. Bristol said that in addition to that, the City added a few more requirements this year that they were happy to have:

- 1) The Arizona Main Street Program has created new rules for participation that they have not had in the past, and they would have to comply with those rules.
- 2) PDP to apply for National Main Street designation, and they've agreed to work on that application.

Councilwoman Suttles asked what that does for the City. Ms. Bristol said that it would provide advertising on a national level as a National Main Street community, just like the State program gives them advertising. She said that there are also other opportunities at the national level for participation, such as grants, etc.

- 3) PDP was very much part of the Focused Future II plan and they have been asked to include some of those items in their planning.
- 4) Quarterly reports through Economic Development staff to be shared with Mayor and Council as well as an annual report, such as they had today.

- I. Adoption of Resolution No. 3882-0850 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the application for an Arizona State Heritage Fund grant for funding of open space for continuation of the Circle Trail, and authorizing the Mayor and staff to execute any and all documents to implement same.

Mr. Smith said that this item relates to the Prescott Circle Trail, which is the 50 mile proposed recreation trail around Prescott that has been ongoing since the early 90's. The Prescott Circle Trail is a partnership

between the City, Yavapai County, Embry Riddle Aeronautical University, Prescott National Forest and Yavapai Trails Association. He said that for the past nine years the City has been completing many portions of the trail, primarily on City-owned lands as well as through the Embry Riddle campus.

He said that one year ago the City made application to Arizona State Land Department for the purchase of right-of-way that would allow for them to construct additional portions of the trail that traverse Arizona State Trust lands. The request before the Council today is a citizen-initiated request for an area near Pioneer Parkway and Williamson Valley Road. The request is for permission to apply for an Arizona Heritage Fund Trails grant, which are Arizona lottery revenues, administered by Arizona State Parks, with a request of \$64,570 from the State, which requires a 50% match. The other part is permission to use Open Space funds that are already budgeted for part of the 50% match, in the amount of \$37,270. The remainder of the match would come from the value of all of the volunteers, staff, services and materials.

Mr. Smith said that the way it would be written in the grant application is that the right-of-way would have to be purchased from the Arizona State Land Department, and there are some administrative steps associated with that. The second part is the actual construction and signing of the trail.

He then introduced Rob Hehlen, a local advocate of the Prescott Circle Trail, who is also a staff member with the Prescott National Forest, and has requested to author the grant application.

Rob Hehlen, 1380 E. Valley View Road, said that he has been working with Mr. Smith on the project and came to him to ask what he could do for him. The State Land sections were the biggest “hiccup” in the trail that they needed an alignment for, so he volunteered to go out and find an alignment, GPS it, and make maps so he had something to take to State Land with the application. They have been waiting quite awhile to hear back from State Land, but they wanted to take advantage of the Heritage grant cycle—the grant is due a week from Friday, so he first came to the Open Space Acquisition Committee and proposed this option of using funds to match the grant so they could complete it. There are actually two sections of State Trust Land that the trail goes through and with the current economic situation, but the Open Space Acquisition Committee couldn't see to bring forth trying to go for both pieces, so they are focusing on the Legacy Extension because it is the least expensive of the two.

Mr. Hehlen said that he did some estimating himself, came up with figures for what ROW would cost and added cost of land surveying, appraisals, construction and they have those numbers before the Council. Working

with Michael Byrd with the Open Space Acquisition Committee, they worked through what would be donated labor, City staff time, and how they could reduce amount of impact required from the Open Space funds, so they could end up with a \$130,000 project that will only require \$37,000 of funds to complete.

Mr. Hehlen said that unfortunately there is not a lot of money for trails and it has been a huge community effort to get the trail built.

Councilwoman Suttles asked where the money paid for that State Trust Land would go. Mayor Wilson said that it goes to the multiple funds, but the biggest one is the school fund.

Councilman Luzius said that they tell us it goes to the schools but the schools only end up with about 14% of it.

Councilwoman Lopas thanked Mr. Hehlen as he has put so much into the project. He has put together a great proposal to really leverage their funds and this is huge. She wants everyone to know this was originally a 45-mile trail, but he proposed adding 5 miles to allow the Boy Scouts to get involved for their 50-mile badge. That is a great tool that they can advertise nationally to get some of the Boy Scouts here to get their badge done in a few days.

Mr. Hehlen said that he thinks it will be a big boost to tourism. He said that he made some PowerPoint presentations, and he then presented a copy to each of the Council members.

- J. Approval of Contract Amendment Two to Contract No. 07-089, Iron Springs Road Improvement Project, with Fann Contracting, Inc., in the amount of \$979,340.07.

Engineering Services Director Mark Nietupski said that before discussing the next two items he wanted to give a little background to the Council and the public on contracting for public improvements for roadways and utilities. He said they these contracts are usually unit costs due to the inherent uncertainty of quantities for a given project. In preparing for a project, items are identified and ESTIMATES are made and put into a bid schedule to generate bids, not to guarantee the total cost of the project.

Mr. Nietupski said that they are structured to allow for flexibility and efficiency in implementation of the projects. Time is of the essence when it comes to resolving issues and promptness is critical to both parties. When extensive time is required to resolve an issue delays can result and claims can be problematic and costly to the owner of a project.

Mr. Nietupski said that specific contract provisions such as force account exist in their contracts to provide for maintenance of production when the parties cannot agree for pricing for required work and that force account is cost plus 15% for labor, materials and equipment. When a force account is done under a project it is monitored by a City staff person, an inspector, who monitors the work, equipment and materials. This is a recognized equitable provision for both contractor and owner. Unforeseen conditions are commonplace in rehabilitation/reconstruction projects which lead to increased costs.

An example was on the Iron Springs Road project near Adams they were building a retaining wall. The project plans identified a major storm drain in a different location and as the footing excavation proceeded they encountered the storm drain in a materially different location which required a revision in the design and also additional work to make provision for that facility. They encountered rock in the footing excavation which required additional expense; soil conditions can have material difference and add to the cost of a project. Their contracts are variable and there are risks for both parties; quantities can overrun. While engineers attempt to minimize them by design, changes are to be expected on projects of this type. Contracting for a major street/utility project is in no way equivalent to contracting for a new piece of equipment.

Mr. Nietupski said that staff is recommending a contract amendment in the amount of \$979,340.07 to Fann Contracting. He said that Iron Springs Road has been a success. Looking at the volume of traffic they have managed out there it has been a success, but it has come at some cost. Traffic control items are in a given schedule with each device identified with its use and duration and that is the basis for payment. Because of the intensity of the project, they had traffic control at multiple locations and this item overran extensively in the amount of nearly \$495,000. They had flagmen at critical areas.

Mr. Nietupski said that another issue was the weather and the fact that they had to work around third-party utility construction. When they awarded the contract in December 2006 it took until the end of July 2007 until all of the utility conflicts were resolved. There were costs associated with water lines and sewer lines. The sewer line construction cost went up a couple hundred thousand dollars, associated with extending the main from Williamson Valley Road to increase capacity and provide for service to residential lots west of that location. That was not part of the original design but as they began the project it became apparent that it was a need that they should address now, so they didn't come back and cut the pavement later.

He said that there was a third-party utility with UniSource Gas, which was identified as being in conflict after having gone through an extensive project on their own to relocate their facility. He recognized the fact that the project incurred a cost of approximately \$42,000 because of that, but UniSource Gas has reimbursed the City for those costs. He said that based on all of these issues, staff believes that what they are requesting is justifiable.

Councilwoman Suttles requested that this item be pulled off of the Consent Agenda. Any time they look at almost \$1 million in a contract change it needs to be talked about. It never ceases to amaze her that they can get bidders coming in and low-bid each other to get into the contract, and no matter who the winner is, they come back saying it is not enough money. It is amazing that they paid \$495,000 for traffic control. She asked if he had any idea that they would be looking at those numbers. She said she cannot come to reigns with this.

Councilwoman Suttles asked about the Fire Station parking lot paving. Mr. Nietupski said that the work was performed under this contract, but it was paid for under a different funding source.

Councilman Lamerson said that he has concern when they have overruns or things that don't come in as bid. Having been in business he knows that stuff happens. He asked what their option would be—to not fix the road. If they don't come up with the \$900,000, he asked what would happen. Mr. Nietupski said that if they didn't pay, they'd probably incur a claim for work performed. Councilman Lamerson said they need to fix the road.

Councilman Luzius said that while he understands that all of these factors contribute to this increase, there are a number of items that were repaired and had to be attended to. He said that they don't know by looking at the pavement what is underneath. The road has to be fixed. He still sees Streets and Open Space as the source of funding of this. When they don't have money in the budget for open space, they don't do open space, but they cannot not pay the contractor.

Councilman Luzius said that it seemed like the City had a problem with Qwest dragging their feet, and he asked if they offered any settlement. Mr. Nietupski said that they have not. Staff just received a notice from them which indicates they are taking a position based on a ruling in a case that they have an existing prior right in the state of Arizona to maintain and operate any facilities beyond any municipal government's authority in that if they have to relocate they are going to ask the municipalities to pay for it.

Councilman Luzius said that they were given adequate time to perform whatever things were required. Mr. Nietupski said that they worked with Qwest for two years to encourage them to relocate them in advance of project. Councilman Luzius said that is what happens when they have a monopoly.

Councilman Luzius said that they had some people that were really impacted by the road work and he thinks a good job was done. It was a matter of public safety that they had as many officers and traffic directors as they did. They got their money's worth although it was so much money.

Councilman Bell said that in looking at the total contract and what the percentage that the change is, he thinks they have done a reasonable job knowing the complicated nature of that project. For them to hold to 5% is commendable. Mr. Nietupski said that it was a very challenging contract; they are approaching completion and they are expecting the contract to have substantial paving in March with final in May/June.

Mayor Wilson said that he seconded that comment. He knows that the businessmen out there appreciate it. He would say that they do need to learn from every one of the projects in the vein of continuous process improvement as they go forward. They will always have complex engineering projects and all they can do is try to do better as they move forward.

Mr. Norwood said that traffic control is such a huge issue. Iron Springs Road carries an incredible amount of traffic, as well as Williamson Valley Road, doubled with Abia Judd Elementary Middle School, it impacts that area. They had some very aggressive behavior and one driver pulled out a weapon on one of the flaggers. It was not an easy job and it was incumbent to react strongly. This project was something that was not typical in having two major arterials.

Mr. Creelman said that he cannot buy that because as a traffic safety engineer all they have to do is go out with pneumatic hoses and put them on the two arteries before the project starts and count every car.

- K. Approval of Contract Amendment One to City Contract No. 07-271, Copper Basin Road Improvement Project, with Asphalt Paving & Supply, Inc., in the amount of \$502,018.39.

Mr. Nietupski said that this is another contract amendment, this time with Asphalt Paving & Supply. This is for additional work required on the project. This project is different than Iron Springs, although it is a major road project with major utility reconstruction and upgrade. The challenges are different from the standpoint that they are working in a very narrow corridor under confined space with little room for changes in traffic.

Under this project they are also under the ADOT provision for traffic control and they will probably exceed the cost of traffic control in the estimate of the bid schedule. They have had to use additional flagmen because with the initial implementation of traffic control, people were not heeding the signs. In order to maintain public safety and some continuity the flagmen have been employed at critical locations on a daily basis to ensure that they don't have public safety issues.

He said that this project has experienced some issues that are not unique to construction but plan omissions have incurred wherein a utility facility that was contemplated by the scope of work was not identified. These require the estimates to go up. They also encountered unforeseen conditions—an example is where they had a 1" water line serving 3-4 residential units. It was also in conflict with the new sewer installation; they had no knowledge of its existence until they began excavation in the area so they had to install temporary lines to accommodate temporary service.

He said that they have also identified work that added value to the project such as a water main extended up Park Avenue to provide service to an existing line on Canyon Springs Road that was anticipated to be included in the Park Avenue project, but because there was only one source of feed for service, it became problematic and with the number of outages of water, over a dozen, this added value to the project by limiting the impact to the residents.

Mr. Nietupski said that another value-added change was regarding a sewer realignment at Park Avenue. It was determined that if they realigned the sewer line and added two manholes it would improve the overall system. That type of change was made when recognized.

He said that there are a couple of design errors, and one has to do with a sewer line; that item is \$230,000 in this amendment. That error was associated with the grade of the line, type of material used and velocity results from the design. It was caught prior to construction, but it will impact the cost of the project.

Also, an issue was identified with a sewer line in Aspen Creek. When they are realized they are addressing them appropriately to ensure there is a quality project in the long-run. He said that they have a retaining wall issue, and there is another one having to do with storm drains. They don't even know what the costs are going to be for those.

Mr. Norwood added that staff is extremely upset with the engineer on this project. This one error is nearly half of what is being asked for, and they

are going to go after that diligently with the engineer. He said that the firm did a lot of work and a lot of preparation; staff thinks it is inexcusable.

Mayor Wilson asked what the chance was of getting some recovery from the engineer. Mr. Nietupski said that since they have not actually installed the pipe and there is a change, if the change is implemented prior to that construction, where they lose sight of things is when they have a competitive bid process and they have multiple bidders bidding on a particular type of pipe material, they get the benefit of that competitive process. In this case, where they have to negotiate based on a redesign, the City becomes at risk for those additional costs. To identify what they might have received in the way of a bid if it had been designed properly versus what they are now paying, is really the question. Once that is identified, then they will be contact with the Legal Department.

Councilman Lamerson said that he is not happy that things cost more money. He has lived in Prescott since 1979 and that road has been a mess since 1979. He is happy to see them fixing the road; it is a public health and safety issue.

Councilwoman Suttles asked that this item also be pulled from the Consent Agenda. There are now at \$1/2 million and still at a very early stage of construction. She has heard that they have unforeseen problems; they will have more traffic control; they have problems with the design. She said that maybe when they bid the projects they should pad it a little. She understands that they cannot do any more than what they are doing, but she asked whose fault it is when this comes back with these change orders.

Mr. Nietupski said that it is not uncommon for a project of this scope to have a cost overrun in the way they design, bid and build. To have something less than 10% would be considered a success. He does not feel that the City has incurred a lot of expense that is beyond the norm. Councilwoman Suttles asked why they don't put some money aside to cover these cost overruns. Mr. Nietupski said that is something they could look at. A contingency fund is appropriate in a construction contract; the level of that establishment is sometimes at question.

Councilwoman Suttles said that she understands where they are with this, but it does not make it right. It does not mean that they are held because they chose to go with a particular contractor.

Councilman Roecker asked if there were not contingency funds built into the original contract. Mr. Nietupski said that there were contract allowance funds that were put in each contract. In the Iron Springs Road contract it was about 2.3% of the bid. Councilman Roecker said that is normal and he thinks that Councilwoman Suttles' frustration is that it just keeps piling

on, and they are only 30% through of the project. He said that this is scary; it looks like a laundry list of screw-ups.

Mr. Nietupski said that he was correct; it is a very difficult project and he takes no pleasure in being before the Council today, but it is the nature of the business. Mayor Wilson said his biggest problem is with the engineering firm, and they should put their name at the top of the list of firms the City doesn't want to work with in the future.

Frank Creelman said that he would like to see their profits off of this project—how many millions they are making and maybe they need to sacrifice some of their profits. Mayor Wilson asked who he was talking about. Mr. Creelman said that the company that is doing the project. If the citizens have to cough up funds for mistakes they have made, then maybe they need to cough down some of their profits.

Ed Burdick, 123 S. Mt. Vernon, said that what occurred to him, having been in the contracting business in the East for 40 years, and looking at a lot of contracts, and in 40 years he never had an extra on any contract, is that in the engineering fee they probably had a + or -, assuming that they had a certain amount of rock that they anticipated. He wondered if the engineering firm ever did any test borings to find out how much rock they are going to encounter. He knows of contractors that bid projects at cost and made their profit on the extras.

Mr. Nietupski said that they have constructed numerous projects that came in under budget implementing unit cost contracting. On the smaller projects that is not uncommon. Rock excavation varies from project to project. It is quantified by estimate based on soil borings taken over the course/length of a project. They are not typically representative of the whole site. They look at select sites.

Mr. Burdick said that he appreciates Mr. Nietupski's position and asked that the Council not "shoot the messenger."

Steve Blair, 1801 Northside Drive, said that he understands the frustration of the Council. Going back many years there was an engineer named Red Higley. His promise to the City was always to do the as-builts for sewer and water lines for the City of Prescott; those never happened. When he hooked up to the water with his new house, they encountered an 8" water line and 2" water line. When the City showed up there was no 2" water line on any map, and they assumed it was dead because there was a new 8" line shown on the plan. They drilled a hole and it was an active water line. No matter how good they are or how wonderful the engineering might be, they cannot tell what is underneath the ground surface. The road on Ruth Street in front of the high school will deteriorate

within a year because of underground springs and all of the water they have had. If they have a contingency fund the contract will use it.

- L. Approval of Supplemental Agreement No. 3 to Contract No. 07-115 with Parsons Transportation Group, for final design of a grade separated traffic interchange in the vicinity of Side Road at SR89A in the amount of \$1,699,748.88.

Mr. Nietupski reviewed this project, which will provide for final design (30, 60, 95% and final drawings) to provide for construction of the facility. It also includes the approval of the existing Side Road median a cul-de-sac construction at the north end of Side Road at the southerly limits of ADOT's right of way.

He said that it also includes the Rails to Trails connectivity from Side Road over and through an existing box culvert and back to the Rails to Trails facility on the west side of Side Road.

The project will be designed in conformance with all of ADOT's requirements. They went through a conceptual development phase, which was phase one, to locate the facility and then also to develop the configuration that would be used in final design. That DCR has been submitted to ADOT. They have not received approval yet, but have received commentary and will be meeting with Parsons to go through that.

Upon its completion the Council will be advised and requested to approve the design concept as they proceed with the engineering for a traffic interchange, in a diamond configuration, with dual lane roundabouts at the termini of the ramps on the north and south side of 89A. A four-lane bridge will be constructed under this design and provisions are made so that those facilities can be enlarged in the future when it becomes necessary.

He said that this contract will be paid from the one-cent sales tax streets and open space fund, with contributions from Yavapai County (\$1.5 million), Country Dells Property Owner (\$480,000) and Cavan has agreed to donate the right-of-way (approximately 25 acres) and all of the soil materials needed to construct this project.

Mr. Nietupski said that the City is obligated under three separate agreements to construct this interchange.

Mayor Wilson said that this is a very important interchange for the future of the City. They are obligated under separate agreements and law suit settlements and he is glad to see it come forward at this point in time.

Councilman Bell asked how many dollars were involved with Phase 1 with Parsons. Mr. Nietupski said that Phase 1 was \$653,501, and then increased by \$9,000 for additional aerial mapping the City requested, and

an additional \$32,500 was added to evaluate the Cavan concept at location C. Mayor Wilson asked if Cavan paid for that. Mr. Nietupski said that Cavan indicated that they would provide the right-of-way associated with the cost of this.

Councilman Bell asked if the County and property owner were participating in the design costs. Mr. Nietupski said that the way those agreements are structured, their participation is required upon construction, so the City is obligated for the \$2.4 million.

Councilman Bell asked if there were competitive bids on selecting Parsons. Mr. Nietupski said that this was in conformance with the State requirements for Solicitation for Qualifications for Professional Services. It is a qualification-based selection process wherein the proposers submit materials for evaluation and ranking. He does not recall the names of all of the firms as it was 1 ½ years ago. Based on the ranking, Parsons was ranked #1 and that was when they engaged them in a contract with a phased process.

Councilman Bell said that reason he was asking is that the City of Prescott was going to present at a Legislative Committee meeting tomorrow morning, based on a resolution with the League to ask the engineers and architects to give them a range of what their price is. The way the law is now, they cannot do that and it has probably cost municipalities and the state millions. He saw a letter today from the engineers and they are going to fight it. He talked with them about a month ago and congratulated them on their lobbying efforts; to get a law like that is absolutely wrong. Representative Tobin has put forth a new bill in an attempt to change this process.

Councilman Suttles asked if they wanted this item on the consent agenda or wanted to wait to see what Councilman Bell finds out. Councilman Bell said that his guess is that it is probably an exercise in futility knowing the strength of the engineers and architects' lobby; he doubts if anything will be passed in law. Mayor Wilson said that he would prefer having it on the consent.

Frank Creelman said that not only is he a master geographer, his area of expertise is land analysis and he has looked at hundreds of infrared photographs in his lifetime and this is a scam. He can give them infrared photographs of the State of Michigan, blow them up and they will give them a split diamond already developed and used in Michigan for 40 years. They can get those maps on the internet. He is challenging the whole process. The intersection needs to be a split diamond. There doesn't have to be any circle roundabouts that three other states are getting rid of because they are a nightmare, like they have at Willow Lake. He said that they can go to Germany; the Germans have done it since

1933. This is not new technology; not new engineering, just a matter of looking at what they want.

Mayor Wilson asked Mr. Creelman where his engineering degree was from. Mr. Creelman replied that it was from East Michigan University, 1969, Masters Degree.

Mr. Nietupski said that the \$9,000 cost was derived from a request from the City to the engineering firm to provide additional aerial mapping and set survey points so that contours with elevations could be developed for design purposes. This was beyond what was contemplated by the original contract and it took in areas to the west of Granite Creek to ensure that they had a full understanding of topography in the area.

Mr. Creelman said that he was familiar with those types of maps and they are already available; all they have to do is order them. Mayor Wilson said that he believed they had a disagreement on that.

- M. Adoption of Resolution No. 3881-0849 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Memorandum of Understanding with the Yavapai-Prescott Tribe providing for allocation of funds for the public benefit in accordance with the State of Arizona Gaming Compact and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Norwood said that this is an item that has come before the Council the last few years. This is a Memorandum of Understanding with the Yavapai-Prescott Tribe regarding a percentage of some of their gaming revenues that they can distribute back to the City. The City is no more than a conduit; they do not select who receives the money or the dollar amount. It ranges anywhere from \$75,000 to \$80,000 each year. Last year the Prescott Library received a significant donation. This year it is broken out between Sharlot Hall Museum, Children's Museum Alliance, Adult Care Services, Yavapai College Foundation.

- N. Approval of the Minutes of the Prescott City Council Regular Voting Meeting of February 12, 2008.
- O. Selection of Items to be placed on the Regular Voting Meeting Agenda of February 26, 2008.

Councilwoman Suttles read the items to be placed on the Consent Agenda: B, C, D, E, G, H, I, L, M and N; the rest will be on the Regular Agenda.

III. ADJOURNMENT

There being no further business to be discussed, the Prescott City Council Study Session of February 19, 2008 adjourned at 4:58 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk