



PRESCOTT CITY COUNCIL VOTING MEETING AGENDA

**PRESCOTT CITY COUNCIL
PUBLIC MEETING
TUESDAY, FEBRUARY 26, 2008
3:00 P.M.**

**Council Chambers
201 S. Cortez Street
Prescott, AZ 86303
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its Regular Voting Meeting pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

CALL TO ORDER

INTRODUCTIONS

INVOCATION: Pastor Danny Cox, Prescott Christian Church

PLEDGE OF ALLEGIANCE: Councilwoman Lopas, represented by students of Primavera School leading the Pledge of Allegiance and Pledge to the Earth.

ROLL CALL:

MAYOR AND CITY COUNCIL:

Mayor Wilson

Councilman Bell

Councilman Lamerson

Councilwoman Lopas

Councilman Luzius

Councilman Roecker

Councilwoman Suttles

SUMMARY OF CURRENT OR RECENT EVENTS

NOTE: Anyone wishing to speak regarding an item on the agenda must address the Council using the microphone at the podium. ***PLEASE NOTE:*** Comments from the public regarding any item on the agenda will be limited to five (5) minutes. Please refer to the Clerk's desk for the timing sequence of the lighting signals: ***GREEN*** at the beginning of comments, ***YELLOW*** with one minute remaining and ***RED*** when time has ended.

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

I. PUBLIC COMMENT (*Please limit your comments to five minutes*)

- A. Frank Creelman re Roundabouts and Solution to Sewer Problem.

II. PRESENTATION

- A. Presentation by Howard Mechanic re Prescott Community Access Channel. (10 minutes)
- B. Presentation by Mel Oliverson re Illegal Immigrants. (15 minutes)
- C. Presentation by Brenda Bobinsky re Illegal Immigrants. (15 minutes)
- D. [Presentation by Jim Holt on Big Chino Project Update. \(10 minutes\)](#)

III. CONSENT AGENDA

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

- A. Approve an Aviation Ground Lease for approximately 1.19 acres at Ernest A. Love Field with 2251 Ruger, L.L.C.
- B. Authorize 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.
- C. Adopt 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.
- D. Approve 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.
- E. Approve Revision of Plat to Pinnacle III trail alignment with conditions, located north of Solstice Drive and east of St. Enodoc Circle. (RP08-003)
- F. Approve a Downtown Management Agreement with Prescott Downtown Partnership for 2008.

- G. Adopt 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.
- H. Approve 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.
- I. Adopt 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.
- J. [Approve the Minutes of the Prescott City Council Regular Voting Meeting of February 12, 2008 and the Study Session of February 19, 2008.](#)

IV. REGULAR AGENDA

- 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.
- B. Bradshaw Senior Community:
 - 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)

- C. 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.
- D. 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.
- E. Adoption of Resolution No. 3883-0851 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, forming the Prescott Capital Needs Committee as a standing committee of the City of Prescott.

V. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on _____, at _____ .m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Elizabeth A. Burke, MMC, City Clerk

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COUNCIL AGENDA MEMO – February 26, 2008	
DEPARTMENT:	City Manager
AGENDA ITEM:	Big Chino Project Update - Presentation

Approved By:	Date:
Deputy City Manager: Craig V. McConnell <i>Craig McConnell</i>	2-19-08
City Manager: Steve Norwood <i>SNorwood</i>	<i>2/26/08</i>

Item Summary

Jim Holt, Big Chino Project Manager, will provide a monthly update on topics including design, right-of-way acquisition, overall schedule, and status of the City's October 2007 application to the Arizona Department of Water Resources for modification of its assured water supply.

PRESCOTT CITY COUNCIL
 REGULAR VOTING MEETING
 PRESCOTT, ARIZONA
 FEBRUARY 12, 2008

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, FEBRUARY 12, 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: Chaplain Larry Gotfredson, Prescott Police Department

Chaplain Gotfredson gave the invocation.

PLEDGE OF ALLEGIANCE: Councilwoman Suttles

Councilwoman Suttles introduced Aiden Kobb and Matt Schmidt from Boy Scouts Troop No. 1, both of whom are working on their Eagle Scout badges. They then led the Council and audience in the Pledge of Allegiance.

Councilman Roecker noted that his son was in Troop 1 years ago and was an Eagle Scout. He added that Troop 1 is the oldest troop in the State of Arizona.

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

Mayor Wilson reported that Item C would be pulled from the Consent Agenda at the request of Councilman Luzius.

I. PUBLIC COMMENT (*Please limit your comments to five minutes*)

A. Tom Atkins re Safe Yield and Gallons Per Capita per Day (GPCD).

Tom Atkins, 309 S. Washington, addressed the Council stating that he is a long-time resident of Prescott and concerned about its water.

He talked about sustainable safe yield, in respect to gallons per citizen per day (GCPD), which is the amount of water each citizen can use each day of the year without depleting the local aquifer, the Little Chino.

Mr. Atkins said that they start out with 7,000 acre feet that lands on the Prescott AMA, that is shared with the Verde River (1,800 ac. ft.), 1,000 ac. ft. goes to the Agua Fria, leaving them with about 4,200 ac. ft left for the SYS PrAMA. Multiplying the 4,200 ac. ft. by the number of gallons in an acre foot, they get 1.368 million gallons of water to share equally among the citizens of the Prescott AMA (Active Management Area), which gives them Safe Yield Sustainable Gallons Per Capita per Day.

He then gave a brief history of the water in the area, and showed different charts indicating that the amount of water available decreased as the population increased. By the time they reached the year 2000, they were down to 47 gpcd if they want to maintain safe yield. He said that is plenty for inside the home but questionable for outside landscaping, and definitely not enough for the population growth.

At 2008, they are at 35 gpcd which is marginal for inside the home. Landscaping has to be xeriscape, and there cannot be population growth and the fields for the kids will be stones. In 2025, when safe yield has to be met, if the population continues to grow at its current rate, they would have 25 gpcd.

Mr. Atkins said that he hopes that decisions can be made to fix this problem.

B. Frank Creelman re Roundabouts.

Not present.

II. PRESENTATION

A. Update on the Elk's Opera House by representatives of the Elks Opera House Foundation.

John Olsen, 14 Brookside, addressed the Council to update them on the Elks Opera House, stating that the Foundation appreciated the Council's

support of the Foundation's efforts to restore the Opera House to its former glory. He then showed some pictures of what has been done, and improvements they hope to make.

Seating. They're charging \$500 a seat to replace the seats in the house, and have funds to do quite a few of them. He said that the seats in the balcony will be restored, rather than replaced.

Lobby restoration and cash register. He said that the cash register is part of the décor that goes back to a 1905 opera house. During the restoration they uncovered art work, which is now visible in the inner and outer lobby.

Ceiling lighting. They need to improve lighting; some has been done, but only in the lobby.

Donation box. Mr. Will Haverland put together a donation box, spending about \$300, and it is in the outer lobby for donations to be made.

Old projection house and camera. There are individuals working with Joe Place to restore this to working order, and hopefully it will be used to show such things as silent movies. Professor George Hall is the one that worked on that, and he has a lot of talent in restoration.

Picture of damage on ceiling when roof was leaking. This has to be restored or replaced in the restoration.

New sounds system. This was recently put in and is a very vital part of entertainment that uses sounds, etc. He said this is professional sound and has greatly enhanced the theater.

Floor of the stage. He said that it is not very good and they are putting it in the restoration plan.

Back door to the stage. The current back door is elevated about 15-20 feet and exits on alley. There needs to be a lift on the outside to bring in stage equipment, which is an approximate cost of \$83,800.

Musicians' chairs and stands. The Community Art Trust gave \$10,000 to buy musician's chairs and stands and they thank them for that.

Green Room under the stage. There was a complete renovation of the bathroom and dressing room. The cost of this was done by the Elks Opera House Foundation at a cost of \$11,000.

Lift for lights. The overhead lights had to be reached by a step ladder that was 20-25 feet tall, and one of the things they used donated funds for was a lift for Mr. Place to use to replace light bulbs.

Interior slide. This is the last slide that shows the interior of how they hope it will look when restoration is done. So far they have it scheduled for 2009. He said that there has been almost \$1.5 million put in through various grants, including the purchase price of \$250,000. With that money the entire replacement of the mechanical system and roof, and other things were repaired. He said that the Trust itself has put over \$100,000 in and they now have about \$100,000 toward restoration.

Mr. Olsen said that the main thing they want to do is thank everyone for their support. He said this is going to be a valuable asset for the downtown area. As time goes on, people will understand what is going on there. If people have not seen the inside of the theater recently, they should visit between 10 AM and 1 PM and Joe Place will give them a tour

Councilman Roecker asked why the chairs in the bottom are being replaced, but the ones in the balcony are being restored. Mr. Olsen said that they are trying to preserve as much of the old things that they can. The balcony seats are in much better condition than the house seats.

Ms. Ruffner said that in 1927 the balcony seats were made by the American Seating Company. They are buying the new seats from them as well. The seats in the house at the present time were 30 years old when the owners of the building that bought it from the Elks put them in, in the 80's.

Councilman Bell said that the citizens of Prescott owe a great debt of gratitude to the Elks Opera House Foundation for what they have done. It is a wonderful place to perform, and the new sound system is ideal.

Councilman Lamerson thanked Mr. Olsen and Ms. Ruffner, as well as the whole crew, on maintaining the facility. It was not until the Elks appeared threatened that the community stood up and they saw a true public/private partnership preserve something that is close to the hearts of most of the people in Prescott.

Mr. Olsen said that he and Ms. Ruffner are sort of old fogies and won't last forever, but they have a good Board. He added that Dale Magnum, who is a very talented actress, is going to put on a program for Saturday night and he hoped they could all attend, which starts at the Hassayampa Inn.

Ms. Ruffner asked that Joe Place be introduced, and he came forward, while Councilman Luzius commended all of them for what they are doing. He said that seeing the Elks being refurbished brings back old memories for him, especially in the balcony.

Ms. Ruffner added that the first seat sold was to Suzane Fister for her father, Jack, who grew up in Prescott and was General Manager for Salt River Project for many years, and the inscription on his seat reads "*He who liked the balcony.*"

Mayor Wilson noted that Tom Slaback has probably the largest collection of movies and memorabilia from movies made in Prescott and he is committed to doing a movie festival at the theater once everything is set up, and he thinks they should be looking at that. He said that the \$100,000 from the Foundation is the tip of the iceberg; they need to look further and start pushing people for real money and get it restored.

Councilwoman Suttles asked Mr. Fenech what is slated for this year, revenue-wise, for the Elks to begin to produce.

Mr. Fenech said this year their budgeted revenue for the Elks was \$90,000 and they expect to surpass that. Next year they expect to be well over \$100,000, possibly \$120,000. Mr. Place has indicated that the bookings are up significantly since the new sound system went in, so without the support of Council for that sound system, that would not have occurred.

Councilwoman Suttles said that she thinks that Council is extremely proud that the Foundation has picked up some of the slack and the community has also; it proves ownership with the theater and she thanked them very much.

III. CONSENT AGENDA

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

COUNCILWOMAN SUTTLES MOVED TO APPROVE CONSENT AGENDA ITEMS III-A THROUGH III-H, EXCLUDING ITEM III-C; PASSED UNANIMOUSLY.

- A. Authorize purchase forty-five Glock Pistol Sets from ProForce Law Enforcement Marketing, Inc. in the amount of \$20,530.87.

- B. Adopt Ordinance No. 4641-0843 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title II, Chapter 13 of the Prescott City Code regarding the imposition of special rates for sanitation services.
- C. Approve professional services agreement with Lyon Engineering in the amount of \$47,000.00 for the Willow Creek Levee Analysis west of Willow Creek Bridge and south of Sandretto Drive. (PULLED FROM CONSENT AGENDA; MOVED TO REGULAR AGENDA)
- D. Approve procurement of Maintenance Management System software and services for the Utilities Operations Division from GBA Master Series, Inc., in a total amount not to exceed \$121,500.00.
- E. Adopt Ordinance No. 4641-0844 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, extending and increasing the corporate limits of the City of Prescott by annexing 89 acres of commercially-zoned land lying between Shoup Street, Adams Avenue and Iron Springs Road into the City of Prescott and assigning a zoning classification thereto.
- F. Approve agreement with Prescott Alternative Transportation (PAT) to provide funding in the amount of \$29,940.00 for implementation of the Safe Routes to School program.
- G. Approve Renewal for Yavapai Downs to conduct Off-Track Wagering at Matt's Longhorn Saloon, 112 S. Montezuma Street, for the years 2008, 2009 and 2010.
- H. Approve the Minutes of the Prescott City Council Regular Voting Meeting of January 22, 2008, the Special Meeting (Executive Session) of January 25, 2008, the Special Meeting (in their capacity as Regional Association of Local Governments) of January 28, 2008, the Workshop of January 29, 2008, and the Study Session of February 5, 2008.

IV. REGULAR AGENDA

- A. Approval for a five-year extension for submittal of Final Plat for Victory Hills Subdivision, located west of Gail Gardner Way with access from Wagon Trail and Pike Place, Applicant Joe Vincent (SP06-001)

Mr. George Worley stated that staff has no additional information related to this, and none was requested of them.

Councilman Luzius said that he had some questions. Mr. Worley said that the applicant is not here due to a family emergency which just happened this afternoon.

Councilman Luzius said that he will go ahead and say what he wanted to say, but he does not think they should be voting on it without the applicant there to answer questions. He said that there have been those on the Council that say that if one has received an extension then they shouldn't set aside another. The fact is that this applicant and Haywood Company, who was supposed to represent them, did not performed his due diligence in bringing forward this project. The extension should have been placed by September 2007. In their letter they put some of the blame on the Planning Department that they did not notify them.

Councilman Luzius said that there will be a great deal of rock to be removed from the site. He said that they are continually tearing down the rocks and outcroppings that bring people to the area. He would think that the Council, after the Lowe's charade, would be more considerate. He said that this would be a perfect opportunity to stop those actions. He would like to know how much rock is coming out, how it will come out, and the effect of that on the adjacent road conditions. They are forced to rebuild Rosser because of the construction trucks. He asked who is going to be responsible for repairing the road.

Councilman Luzius also asked if the streets were going to be 28 feet wide, if this was approved. Mayor Wilson said that question is one of an extension of plat; they have already approved the preliminary plat and if they are in substantial conformance with the preliminary plat, they cannot ask them to change anything. The question is whether they are going to extend this plat by five years or not. Councilman Luzius asked that the Council not approve the extension.

COUNCILWOMAN SUTTLES MOVED TO APPROVE A FIVE-YEAR EXTENSION FOR SUBMITTAL OF THE FINAL PLAT FOR THE VICTORY HILLS SUBDIVISION; SECONDED BY COUNCILMAN ROECKER.

Councilman Roecker asked if any of the issues brought up today by Councilman Luzius concern staff in any way. Mr. Worley said that they are concerned with some of the issues, but they will be addressed through the rest of the process. They are concerned about damage to the roads and it is something that the City looks at as the review process goes on. They are unaware at this point, because they don't have a complete set of construction drawings (which happens between preliminary and final plat), what impact grading, etc. will have on the site.

Councilman Bell said that Councilman Luzius mentioned that the City did not have an obligation to notify the applicant of time constraints; he asked if that was something they have done as a courtesy. Mr. Worley said that they do attempt to do that. He said that usually there is a planner involved consistently throughout the process, but that continuity was disrupted; however, it is the applicant's project and their responsibility.

Councilwoman Suttles asked Councilman Luzius if he wanted this project to go through now, or not at all. Councilman Luzius said that he wants his questions answered and he has more comments. Hypothetically, he has a driver's license and it is up to him to renew it before it expires; the State does not remind him. He said that the applicant is not present, and they are trying to put the blame on someone else; that is not due diligence. He would like his questions answered, and would like it postponed.

Councilwoman Suttles said that it is a five-year extension; they are not going to do anything at this point. Councilman Luzius said that he does not like the project. Councilwoman Suttles said that is his call, but she is at a loss as to why he didn't question these things earlier. Councilman Luzius said that he believes he did.

MOTION PASSED 6 – 1 WITH COUNCILMAN LUZIUS CASTING THE DISSENTING VOTE.

- B. Approval of Final Plat for Unit VIII of The Ranch @ Prescott, comprising 31 lots on approximately 23.5 acres located west of Lee Blvd, and south of Gateway Mall, Owner Scott Lee (FP07-009).

Mr. Worley said that staff has no additional information, but is happy to answer any questions.

Councilman Luzius asked that staff put up the schematic that shows the plat. During this time the applicant, Scott Lee, 300 Lee Blvd., came to the microphone.

Councilwoman Suttles said that this is for the final plat of Unit 8 of The Ranch at Prescott. She asked the applicant if this was the last of what the Ranch is going to be. Mr. Lee said that this is the last single-family residential that was actually platted a long time ago.

Councilwoman Suttles said that the only question she had was if there were sidewalks within The Ranch. Mr. Lee said that they have about 20 miles of roads and there is no sidewalk, except over by the mall. On the north side of 69, they did tie in to the sidewalks to Yavapai Hills because they had sidewalks, but if they put in sidewalks here, they really won't go anywhere.

Councilwoman Suttles asked about the width of the road. Mr. Lee said that except for Lee Blvd., all of the roads have an asphalt width of 21 feet, front of curb to front of curb.

Councilman Luzius asked if Morning Glory goes through; Mr. Lee replied that it did. Councilman Luzius said that the main reason he asked to have this taken off the consent agenda is the fact that the Code says the streets should be 32 feet in width with sidewalk. He understands that a lot of their roads are 20 or 21 feet and he wants to make them 24 feet. Mr. Lee said that the width is 21 feet. Councilman Luzius said that he is concerned with maneuverability of fire apparatus and also sanitation trucks. He took some measurements of the apparatus at the fire house. They are talking about allowing 21' or 24' wide road and the wheel base of the apparatus is just under 18' long, from front to back wheel. The length of it is 34 ½' long and he is concerned about the maneuverability. He does not want it on his conscious if something were to happen.

Mayor Wilson said that they had this discussion last week and he would like the Fire Department to comment. Assistant Fire Chief Bruce Martinez said that they are okay with the 24' width as long as there are "no parking" signs and adequate turnarounds. Councilman Luzius said that was what he wanted to hear, and although he didn't agree with him he was the chief.

Councilman Lamerson asked if this was in substantial compliance with the preliminary plat. Mr. Worley replied that it was. Councilman Lamerson said that he was glad to hear the firemen could do their job, and he then asked Mr. McDowell if they were able to pick up garbage in the neighborhood. Mr. McDowell said that he agreed with the chief; as long as they have adequate turnaround. He said that they currently do not have issues in The Ranch.

COUNCILWOMAN SUTTLES MOVED TO APPROVE THE FINAL PLAT OF UNIT 8 OF THE RANCH AT PRESCOTT; SECONDED BY COUNCILWOMAN LOPAS; MOTION PASSED 5 – 2 WITH COUNCILMEN LUZIUS AND ROECKER CASTING THE DISSENTING VOTES.

- C. Approve professional services agreement with Lyon Engineering in the amount of \$47,000.00 for the Willow Creek Levee Analysis west of Willow Creek Bridge and south of Sandretto Drive

Councilman Luzius said that he had asked to have this pulled from the Consent Agenda because last week he wasn't sure that he had a problem

with it, but he has a problem with it today. He said that his main problem is that they are using Open Space funds to service or replace a levee.

Mr. Nietupski said that this is a budgeted project in the one-cent fund of streets and open space. As explained last week, the proximity of this levee is immediately to the west of Willow Creek Road and the bridge that crosses Willow Creek, so there is some contiguous nature that would allow them to use those funds for that purpose.

Councilman Luzius asked if they were road funds or open space funds. Mr. Nietupski said that the one-cent sales tax is for streets and open space. Councilman Luzius said that if it is open space and street, then he asked what would preclude the Open Space Acquisition Committee from approving a purchase of open space and using street funds.

Mr. Norwood said that in the City budget they have in this fiscal year about \$7.9 million dedicated for open space. Anything outside of that will occur in various line items and they are budgeted on a project by project basis. This is not taking any funds whatsoever from open space. Mayor Wilson said that the answer to the question is the will of the Council.

Councilman Luzius said that he thinks it is needed, but in his opinion if they are using money out of the same one-cent fund, then open space is contributing to this project and they should set aside the open space from the road money. If they want to borrow the money from open space, they can do that, but pay it back with interest.

Councilman Lamerson asked Mr. Kidd if he understood correctly that the one-cent fund that was dedicated to be used for both streets and open space, was at the Council's discretion, as supported by two different court decisions. It is not a 50/50 split; it is a priority issue based on how the Council, at a given time in history, sees the availability of money

Mr. Kidd said that he was correct. When the one-cent tax was passed, both open space and roads were put in there. They had a law suit a few years ago and the court determined it is discretionary, made on a budgetary basis, annually. The Court of Appeals determined that the appeal was not perfected by the plaintiff, so that is basically the law that applies at this time.

Councilman Lamerson said, in support of what Mr. Norwood said, the Council has by choice allocated a significant amount of money for open space purchases, and they are not obligated outside of that.

Councilwoman Suttles said that she is confused with the commingling of open space and streets money. The Council has never said they were going to do anything with open space money.

Councilman Roecker said that public expects that they are going to set aside, by the year 2015, \$40,700,000 for the purpose of purchasing open space. They are currently keeping track of those dollars separately in the same account. Mr. Woodfill said that is correct, it is part of the five-year plan. Councilman Roecker said that anyone that wants to see those figures are welcome to. Mr. Woodfill noted that they are also available on the City's website in the Annual Budget Book.

Councilman Lamerson said that the initiative as passed had a limitation of no more than \$40.7 million to be spent, but there was no minimum, and that has been validated. They are not obligated to set aside \$40.7 million; they can, and they can spend up to that amount but they are not required

Mr. Kidd said that was correct; it is discretionary with Council. They could spend it all this year on open space and in another year spend it all on roads; it is discretionary by the Council. Councilman Lamerson said that right now they need to fix the bridge, and it happens to be that fund.

Mayor Wilson said that one of the issues boiling below the surface is what is legal, and that is why they have an attorney, and what is right. They have an obligation as elected officials to look at what is right. As far as he is concerned, the \$40.7 million is what is right and he will push to spend that amount by 2015.

Councilman Luzius said that by the year 2015, there will be \$40.7 million, less the monies that have been spent on open space. Mayor Wilson said that it will depend on who is on Council. He said that Mr. Kidd said that they could spend all of that money today, and if they can do that, they should. He said that he hopes he is alive at 2015 when it happens.

COUNCILWOMAN SUTTLES MOVED TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH LYON ENGINEERING IN THE AMOUNT OF \$47,000.00 FOR THE WILLOW CREEK LEVEE ANALYSIS WEST OF WILLOW CREEK BRIDGE AND SOUTH OF SANDRETTO DRIVE; SECONDED BY COUNCILWOMAN LOPAS.

Councilman Bell said that he thinks this is a waste of money. It is mandated by the Feds and he hates to spend it for something that is a waste of money.

MOTION PASSED UNANIMOUSLY.

- C. Recess into Executive Session.

COUNCILMAN ROECKER MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

The Prescott City Council recessed into Executive Session at 3:59 p.m.

V. EXECUTIVE SESSION

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

1. Big Chino Water Ranch

- B. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to A.R.S. 38-431.03(A)(4).

1. Potential litigation re Center for Biological Diversity.

- C. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting, pursuant to A.R.S. 38-431.03(A)(1)

1. Possible amendment to City Manager employment agreement.

VI. ADJOURNMENT

The Prescott City Council reconvened into Open Session at 5:37 p.m. at which time the meeting was adjourned.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 12th day of February, 2008. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2008.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk

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

COUNCIL AGENDA MEMO – (02/26/2008)	
DEPARTMENT:	City Clerk
AGENDA ITEM:	Consideration of Resolution No. 3883-0851 formally creating the Prescott Capital Needs Committee

Approved By:	Date:
Department Head: Elizabeth A. Burke	02/22/2008
Finance Director: Mark Woodfill	
City Manager: Steve Norwood	

Background

As you are aware, each Council member presented the names of three citizens to be appointed to a committee to review the capital needs of the City and make recommendations to the Council regarding their priorities and funding options.

This resolution formally creates the Prescott Capital Needs Committee as a standing committee of the City to serve this purpose. Their initial meeting was held earlier this week and they will be meeting weekly on Wednesday afternoons at 4:00 p.m. at the Meeting Room of the Rowle P. Simmons Community Center, 1280 Rosser Street, beginning March 5, 2008.

Once the committee has completed its tasks, another resolution will be adopted to dissolve the committee.

Recommended Action: MOVE to adopt Resolution No. 3883-0851.
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RESOLUTION NO. 3883-0851

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT,
YAVAPAI COUNTY, ARIZONA, FORMING THE PRESCOTT CAPITAL NEEDS
COMMITTEE AS A STANDING COMMITTEE OF THE CITY OF PRESCOTT**

RECITALS:

WHEREAS, Section 1-13-1 of the Prescott City Code authorizes the Mayor and Council to form and create Standing Committees of the City, to act in an advisory role to the Mayor and Council in areas not otherwise within the province of established boards or commissions; and

WHEREAS, the Mayor and Council wish to form and create the Prescott Capital Needs Committee of the City to study and advise the Mayor and Council on capital needs of the City and potential funding options to address said needs.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT there is hereby formed the following Standing Committee. PRESCOTT CAPITAL NEEDS COMMITTEE, which shall be comprised of 21 members.

Section 2. THAT the role of the Prescott Capital Needs Committee is to study the capital needs of the City, consider funding options and make recommendations to the Mayor and Council.

Section 3. THAT upon completion of its service to the Mayor and Council, the Prescott Capital Needs Committee shall be terminated by resolution.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 26th day of February, 2008.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney