PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
PRESCOTT, ARIZONA
MARCH 11, 2008

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MARCH 11, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ CALL TO ORDER

Mayor Wilson called the meeting to order at 3:02 p.m.

◆ INTRODUCTIONS

◆ **INVOCATION**: Pastor Warren Thompson with Prescott Community Church

Pastor Warren Thompson with Prescott Community Church gave the invocation.

◆ **PLEDGE OF ALLEGIANCE**: Councilman Luzius

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

◆ **ROLL CALL**:

Present:	Absent:
Mayor Wilson	None
Councilman Bell	
Councilman Lamerson	
Councilwoman Lopas	
Councilman Luzius	
Councilman Roecker (arrived at 3:28 p.m.)	
Councilwoman Suttles	

◆ SUMMARY OF CURRENT OR RECENT EVENTS

City Manager Steve Norwood said that many of the Council members had seen in the newspaper that there were 16 arrests downtown last weekend. Several of them have expressed concern with activities going on in the downtown area. Chief Oaks and his staff have put together a good plan to raise the police presence downtown, and will also be working with the Citizens on Patrol. Hopefully within the next month they will have the Chief give the Council an update as to what they have found so far and the plan and their progress.

Councilwoman Suttles reported that she attended the Grand Opening of the Boys and Girls Club last Wednesday, and Councilwoman Lopas came with her two girls. She said that anyone that has the chance needs to go see the facility. They did an outstanding job and it was a treat. Councilman Luzius noted that he was there as well, and he said he was also impressed. Mayor Wilson said that he was there early as he had another meeting to attend.

I. PRESENTATION

A. Presentation re Commercial Vehicle Enforcement Program by Prescott Police Department Officer Garry Grahlmann.

Police Chief Randy Oaks introduced Garry Grahlmann, an officer with the Prescott Police Department. Officer Grahlmann said that he works for the Prescott Police Department in the traffic safety section, and has worked for the Police Department for the past ten years. He said that he worked in traffic safety for the first eight years, and about two years ago he started in the commercial portion. He said that he is currently the commercial traffic safety officer for the City. He noted that although he is only one, he has other officers looking for items and they will often contact him.

Officer Grahlmann then gave a PowerPoint presentation on Commercial Vehicle Enforcement, attached hereto as Exhibit A, and outlined below.

- Goals
- Requirements
- The Commercial Vehicle Stop
- The Inspection
- Brakes & Brake Adjustment
- Structural integrity of vehicle

Councilman Luzius asked Officer Grahlmann to describe what a Level 1 vehicle inspection was. Officer Grahlmann said that it includes brake application. A Level 2 would include a walk-around and Level 3 is just paperwork. He said that 99 percent of the time he is doing a Level 1 truck inspection.

Councilman Lamerson thanked Officer Grahlmann and his fellow officers for everything they do. He said that from what he understands that a portion of the fine comes into the City funds, but asked where the balance of those fines goes. Officer Grahlmann said that, using a seatbelt violation as an example, the fine is $300. It is a primary offense so a truck driver can be stopped for not wearing their seatbelt. Right off the top $10 is taken for things such things as probation; based off of that 50-55% of the

Regular Title 28 violation or 60-65% of a commercial violation stays with the City. The rest of it goes for the court fees and anything that has to do with the court, and a portion also goes to the State.

Officer Grahlmann said that the vehicle and equipment was obtained as an approval through Council about two years. The truck actually came in last July and went through outfitting, and it went out on the road since September.

Councilman Lamerson noted that, as was pointed out by the Mayor during the demonstration, this particular mechanism is not a revenue-building item; it is a street maintenance item. Officer Grahlmann said that was correct—it is street maintenance and education. They work with business owners to provide information whenever possible.

Councilwoman Lopas asked the number of violations they were averaging a month, and if they see a decrease in repeat offenders. Officer Grahlmann said that he does not focus just on commercial trucks. He has a very vast plate that he works from, and it is hard to give a number. He said that it fluctuates; some days where he only does commercial vehicles, he averages about two to three stops a day. Some circumstances, he will only get one or two. Some days he has written in excess of 30. Statistically, in 2007, he did 39 inspections, of those 32 were taken out of service and up until September he was doing inspections off of his police motorcycle. He said that of the 39 inspections, he had 572 violations of the Federal Code and wrote 35 citations. As of January 1 he has done 12 inspections and 9 of them have been out of service. He has had 106 violations and written 5 citations. He said that, unfortunately, there are repeat customers.

Mayor Wilson asked what the other municipalities were doing. Officer Grahlmann said that currently the only other certified truck inspector in this area is a DPS officer. Prescott Valley let their certification on two officers lapse and Chino Valley has never sent an officer through the school, and he noted that the DPS officer is in the area on a limited basis. Additionally, the Sheriff's Office has no one.

Mayor Wilson asked if two scales were enough for the City. Officer Grahlmann said that it would be easier if he could get two more.

B. Badge presentation to newly-promoted Prescott Police Lieutenant Rich Gill.

Chief Oaks said that it was a pleasure to come before the Council today to introduce someone that was probably no stranger. He then asked Rich Gill and his wife, Prudy, to come forward.

Chief Oaks said that Mr. Gills worked for the Prescott Police Department from July 1983 to July 2006. After 23 years, of which 16 were as a sergeant, he moved to Montana for three months and then West Virginia for eight months, and then decided that his love of Prescott was so strong that he had to return. After being in a private enterprise for a month he came back to the City, but up until yesterday he was a Code Enforcement Officer.

Chief Oaks said that with the recent retirements in the department, one position they froze but another for a lieutenant is a vital command position for the department and they chose to replace that position. They did an internal promotional process for candidates that had held the rank of sergeant for at least four years and Rich, being an employee of the City, applied and was at the top of the list as they came through the process. They brought him back to the Police Department with one exception; he had been a sergeant, and now is a Lieutenant. He then asked Mrs. Gill to pin on the new badge.

Chief Oaks said that it is always great to find people within the City with talent and they are very proud to bring back 23 years of service and put him where they think he belongs.

C. Presentation on 2007 Annual Water Reports to be submitted to the Arizona Department of Water Resources.

Connie Tucker addressed the Council and said that she would like to briefly review the numbers they will be submitting to the Arizona Department of Water Resources (ADWR) for their 2007 Use and Reuse of Water. She then presented a PowerPoint presentation, attached hereto as Exhibit B.

She said that because of the dry conditions in 2007 they were not able to recharge any of the surface water from the lakes; however, she is happy to report that as of today, they have recharged 622 acre feet this year—39 days of recharge.

Ms. Tucker said that the fee that has to be paid to ADWR for the withdrawal is nearly $17,000.

Councilwoman Suttles said that they delivered water to Holiday Hills, Highland Pines and Wilhoit Water Company, and asked why they delivered to Wilhoit. Ms. Tucker said that it was an emergency situation as their arsenic levels for their service in Chino Valley were above limits and the City was asked to provide interim water while they got their treatment set up. She said that Prescott received a letter yesterday stating

that they no longer need water delivered.

Councilwoman Suttles asked how ADWR determines their fee. Ms. Tucker said that it is $2 per acre foot for groundwater withdrawn and $1 per acre foot of recovered effluent.

She said that another component of water they have to report is the amount of water that cannot be accounted for, which was 7.1% for last year, or about 599 acre feet. She said that this amount is a reduction from 2006, and they are attributing that to their meter change-out program. Another part of the reduction was the leak detection program. She said that the ADWR acquired equipment this past year that they have trained people in the AMA on how to use, and made it available anytime they suspect a leak. They have used it several times and it is very useful. Another reason for reduction is the efforts through the conservation program.

Councilman Lamerson said that he realizes that it is within the acceptable amount of water loss, but when they live in an area with such water problems, 599 acre feet of water would service 1500 homes, and he would like to make the point that they need to work harder to find out where the water is going. Ms. Tucker said that they are working on that issue.

Ms. Tucker noted that last October they submitted their application to modify the assured water. They also have the permit renewal for the underground storage facility where they send the water for recharge up this year and are looking to renew it for another 20 years.

She said that in July of 2007 they had Well #4 go down during one of their busiest weekends and hottest times of the year. They were pleased that their crews were able to get that fixed without any major service interruption and the cooperation from the public was very much appreciated.

She said that another good thing that the Council implemented a few years ago was the time-of-day water ordinance. From April to October there is no outdoor spray irrigation between 8 AM and 8 PM and they have found that has reduced the peak demand in the hot months from 13 mgd to around 11 mgd, and that is very critical for fire safety and the ability to keep the reservoirs full.

Councilwoman Suttles asked if the $55,000 for the water conservation program was one year. Ms. Tucker said that was fiscal year 2008. She said that the incentives are budgeted out of the alternate water budget and that is funded through the fees on the water rates. The incentives go from

turf removal, toilet installation of low-flow toilets, washing machine rebates, etc. and each one has a different dollar value. She said that they are seeing the greatest water savings from the turf removal.

Ms. Tucker said that there was 45,000 sq. ft. of turf removed last year, which included 33 customers, and they are estimating a savings of 1.5 million gallons saved.

Councilman Lamerson said that they have saved 11.8 acre feet and anticipate saving that on an annual basis, for a $55,000 investment, which seems like a good buy to him.

D. Demonstration on Interactive Pothole Recording Map and Upcoming Google Map Applications.

Finance Director Mark Woodfill said that the City of Prescott has a website: Prescott-az.gov, which is used quite a bit to get information out to the public. He said that they keep trying to make it more and more useful and Derek Collins, web designer, and Cat Moody, the GIS coordinator applications Manager, will be going over some improvements that have been made.

Cat Moody said that the first demonstration is the Pothole Reporting Map and the second is the upcoming map applications and Google Earth applications.

Ms. Moody said that the Pothole Reporting Map is accessed on the first page under City Services/Streets & Traffic/Pothole Reporting.

She said that this application is being released today and will be used in conjunction with the pothole hotline which is already in place.

Ms. Moody said that they have some other maps that are still in development, and she then showed some City trail maps that provide not only the location but information about the specific trail.

She said that they will also be working on Google Earth applications for parks and open space. She said that part of the challenge is displaying information on parcels. That is the type of information and data sets that they would never be able to display on maps very efficiently, but in Google Earth it would be able to be displayed. That is a project on the horizon. She then demonstrated some different layers, such as planning and zoning, identify parks, facilities, etc.

Councilwoman Lopas thanked staff for bringing these applications forward. She said that she is excited about it and her kids will be thrilled

to work with them.

Mayor Wilson asked if it will be possible to have street level views, and adding them to the maps. Ms. Moody said that they are doing that for big cities right now, but not in Prescott.

Ms. Moody said that as the City updates their imagery she will be working with TeleAtlas, the people who do the Google data, to try and get more updated information available quickly.

Mayor Wilson thanked staff for their presentation, stating it was very impressive.

II. CONSENT AGENDA

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

COUNCILWOMAN SUTTLES MOVED TO APPROVE CONSENT AGENDA ITEMS II-A THROUGH II-E; SECONDED BY COUNCILMAN BELL; PASSED UNANIMOUSLY.

A. Accept bid from U.S. Transportation Services and purchase of 20 six-yard and 20 eight-yard front-loading refuse containers for the amount of $34,433.14.

B. Approve an engineering services agreement on behalf of the Central Yavapai Metropolitan Planning Organization with Civiltec Engineering, Inc., in association with HDR, Inc., for the SR 169 Connector to Fain Road and Chino Valley Extension corridor studies, in an amount not to exceed $538,552.00.

C. Approve Revision of Plat for Lot 8, Block 10 Fleury's Addition, dividing the existing lot into three lots, located at the northeast corner of Willow Street and Western Avenue; Applicant Mike Terry & Patricia Munson, Gary Green, Aspen Creek Engineering (RP08-001).

D. Adopt Ordinance No. 4643-0845 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona abandoning a portion of unused and unimproved Lorraine Drive located north of Willow Creek Road and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment.

E. Approve the Minutes of the Prescott City Council Regular Voting Meeting of February 26, 2008.

III. REGULAR AGENDA

A. 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 said that this item was discussed a few weeks ago and since that time they met with the property owners. He pointed out that neither ADOT nor the City of Prescott has approved the DCR (Design Concept Report) which actually sets the final location. That process is ongoing and it is in ADOT's court.

He said that they met with representatives of Centerpointe East last Wednesday, along with Councilwoman Suttles, Councilman Lamerson, and Dallas Hammit, ADOT District Engineer. He said that they heard the concerns of the property owners with respect to the recommended location of the traffic interchange and explained the history and process they followed.

Mr. Nietupski said that the property owners were not recognizing that and felt the interchange should have been located at the existing Side Road. He said that there are issues with that location with respect to design standards and operation/safety issues. During the course of the meeting the property owners expressed to staff that if the City were to proceed with this recommended location that it would be their request to be relieved of their financial obligations under the agreement that applies to the Country Dells property.

He said that they discussed that and it was suggested that they could look at a development of an off-ramp from points west on the map that would provide ingress to Side Road directly off of 89A. They have asked Parsons to look into the feasibility of that concept. They intend to meet with ADOT District Engineer this Friday to further that discussion.

He said that at this time, they don't have information, but it would be important to have the contract in place for the design of the interchange, regardless of where it is located. Parsons said their design fee would not change if it was located at B, C or A.

Councilwoman Suttles said that she had to leave the previous meeting early and asked Mr. Scott, who represented several of the property owners, to give a rundown.

Justin Scott, 1185 High Valley Ranch Road, thanked the Council and Mayor for allowing him to speak and also for the meeting. He said that there were approximately 15-20 owners in attendance; they have 30 total owners at Centerpointe East. He thinks that the owners do recognize some of the challenges faced with the interchange at Side Road, and they discussed at length what may be in the end a necessity to move it, whether it is 300', 800' or the proposed 1800'. They discussed at length the agreement and settlement of litigation with Country Dells recorded in 2003 and also discussed the settlement agreement, which was an amendment to that agreement in 2005. They discussed an intergovernmental agreement also recorded in 2005. All of them contemplate and state Side Road as the location of the agreement.

Mr. Scott said that there is some verbiage in the amendment that talks about additional sites that might work for Great Western Drive, Larry Caldwell, or Side Road, and those additional sites are being contemplated at this time, or could be contemplated through the design of the interchange. He said that the group as a whole understands that pursuant to the agreement the Centerpointe East owners may owe up to $480,000.00 toward the interchange. They also understand that it has to be completed within four years of the agreement. He does not believe it is anyone's position to not pay their proportionate share. They all believe that the interchange for them directly affects some of the intended uses. They heard from various owners that had anything from a hotel and hotel franchise agreement made at the corner of highway and property to Empire that has large equipment facility, and their concerns with equipment coming in and out.

Mr. Scott said that the current condition of Side Road with the school there is a real danger and they all agreed on that. At the end, Mark Nietupski said that the City would consider giving them some type of lane to their property off of 89A and they discussed a possible connector road, shown on the map, possibly being named Centerpointe East Drive, because it does go right through Centerpointe East.

He said that they talked about mitigating, reducing, completely eliminating the $480,000.00 contribution by the owners and at this point in time they as a group have had some e-mail discussions but have not met since the meeting. He said that he invited all of the property owners to attend the meeting today and represent their individual interests. He said that they are passionate about their property value and keeping it as close to Side Road as possible. They want to work in the spirit of cooperation for the best of the Tri City area.

Councilwoman Suttles said that this agenda item is simply approving the agreement with Parsons. Mr. Nietupski said that was correct; it is strictly

for the engineering of phase 2 design services for the traffic interchange. Should the design concept be feasible there would also be another potential consideration regarding costs.

Councilwoman Suttles said that the commercial property in that area is very important to the City, but they also have to meet the demands of ADOT and others.

Councilman Lamerson thanked Mr. Scott for participating so well at the last meeting and presenting today. He appreciates the owners' understanding, especially after the ADOT presentation and the relevance of where the road is and safety issues it will be impacted with. He said that they need to move forward with an understanding that something is going to be designed there. There are three options that will not change in dollars. The property owners all need to be commended for working with the City because it is a public safety issue.

Councilman Roecker said that he totally agreed with what Councilman Lamerson said. He was curious if any of the property owners had any concern that if they pass this design contract that it would jeopardize or alter their position in the future regarding the value of their property.

Helen Tusta, 1405 Ridge Drive, Yavapai County in Williamson Valley, said that Mr. Scott said what she wanted to say, but she wanted to repeat that she is a property owner in Centerpointe East Industrial Park, and she has quite a bit of money invested. She purchased the property for future sale and understood that Side Road would be built as an overpass. Good access is required for good resale. She said that she learned in late 2007 that a 300' or 1200' move to the east would satisfy the problem and now it is up to 1800'. She understands from last week's meeting that the 1800' mark lands on the property of someone that wants to donate property, and that sets her mind to ticking. She said that she feels that her goal is compromised and her property is devalued. She said that the moving of the access to her property will be totally lost unless the overpass is named after their park, Centerpointe East Industrial Park, with prominent signage all the way down to the entrance. Also, she believes that it if is moved that their $480,000.00 should be abolished.

Councilwoman Lopas asked if they know the time frame from ADOT. Mr. Nietupski said that they had requested that in writing after the meeting where they were at, but as of this morning, they have not received comments from the Phoenix office that is reviewing the DCR.

Councilman Luzius said that he had understood that the reason for relocating the Side Road interchange was because it was mandated by ADOT. Mr. Nietupski said that the whole process for development of an

interchange on the State highway system is quite involved. When they started this project they looked at alternative locations. The first one was 300' east, the second was 1200' east and an analysis was done to look at each of those. They also looked at cost of construction. They were into that process for eight months when they were approached by a property owner that would have been impacted under either B or A, Cavan, to discuss their input. They suggested that another location may be preferable, and they took that request and added it into the mix of the analysis. When they went through the analysis, location C was the one that met all of the design criteria re ADOT standards. Locations B 300' east, and A 1200' do not meet all of those requirements. Not that it is mandated, but it is the process, considering all of the factors.

Councilman Luzius asked if ADOT's criteria didn't specify they should be at least one mile apart for interchanges. Mr. Nietupski said that was correct, so Larry Caldwell at 1200' would have met that criteria however there were grade issues with the ramps that were not consistent with the design guidelines.

Councilman Lamerson said that Proposition 207 comes to mind with things like this and he asked the approximate value of the 25 acres and material that Cavan is offering to help. Mr. Nietupski said that the value placed on the 25 acres was $5.5 million and the value of earth offered was between $2 million and $3 million. Councilman Lamerson said that they are talking about a $7-8 million contribution. He said that the thing that concerns him more than anything else is the public health and safety, but they are talking about a pre-$480,000.00 obligation along with changing people's ability to use the property under the expectations with which they purchased it. He would hope that they can work through this without compromising the opportunity to do what is in the best interest of the public health and safety. He believes that where the interchange is proposed is the best location, but he also things there is an element of fairness and he would like to have that taken into consideration.

Councilman Bell said that he was confused. He asked if staff was asking them to approve Supplemental Agreement No. 3 that gets the contract up into the $2 to $3 million range. He is trying to equate the urgency of doing that until they know where they are going to go.

Mr. Nietupski said that at this point, they are not going to tell them to proceed with final design. The intent is to proceed so that once they have final approval of the DCR that they would begin immediately because there are time constraints. Construction must proceed by June of 2009 in order to comply with the agreements.

Councilman Bell said that they cannot design it until they know where it is going to go. He said that the Council is available to Mark in a matter of one week to approve an agreement. When they are talking about $1.6 million it is a lot of money to approve it when they don't know where it is going to go.

Mr. Nietupski said that the recommendation is for Location C. If ADOT says they have an issue with Location C, then that would be another thing. He would anticipate that they will be in favor of that location, and then staff's recommendation to Council would be for Location C. They still intend to move forward for an additional ingress for Side Road, and that would require an amendment to the DCR.

Councilman Bell asked if Parsons could be directed to proceed with an alternate. Mr. Nietupski said that they have preliminary feedback that the design criteria can be met as it relates to the development of an off-ramp that would provide ingress to Side Road from SR89A. Once they have confirmation of that and ultimately the District's support in the development of that concept, they would ask for Council approval for additional design money to proceed and incorporate that into the construction document.

Councilman Roecker asked who has ultimate jurisdiction on where the interchange goes. Mr. Nietupski said that he believes it is ADOT's jurisdiction. He does not know how they could argue another location without compromising the obligations they are committed to.

Councilman Luzius said that when this was brought forth the District representative was in favor of it being at Locat C. Mr. Nietpuski said that was correct. Councilman Luzius asked what the additional cost would be for the extended ramp off of 89A. Mr. Nietupski said that is information he does not have at this point; Parsons is working on that and he would hope to have that available for distribution this week or early next week.

Mayor Wilson said that they had a good meeting with the property owners and thinks they are going in the right direction in terms of listening to ADOT. They need to work closely with the property owners on a solution that is a win/win for everyone.

Steve Blair, 1802 Northside, said that he would hope that before there is a decision is made they would look at the alignment of the old Side Road because ADOT was very involved with that, with a preliminary off-ramp and on-ramp at the current location. He said that if it was good enough for ADOT then, he asked what had changed now. He believes the commercial property owners have the right to have their concerns addressed and perhaps meeting in the 300' mark or 1200', but to keep

moving it further is a total injustice to them, when ADOT was involved with the original alignment at Side Road.

Lewis Testa, 1405 Ridge Drive, said that he recently went out and looked at the topography closely and they have already done the dirt work on the north side of the highway. He does not think it is right; ADOT made a decision and now someone else wants to change their mind.

Ken Lavven, 7675 S. Royal Hills Drive, Kirkland, said that as a property owner out there he concurs with the last two gentlemen. When the City worked with Chamberlain & Myers, it was understood by them as well as the property owners that Side Road, which already had some dirt work done on it, was going to be the entry into that subdivision. He believes that something is amiss with respect to not only the continuing push to the east of the interchange, but also in the fact that the City was worked with from Day 1 in the development of the subdivision. He was not at the meeting last week but it is a City-approved subdivision with the existing Side Road being both the entry and exit to that commercial subdivision. There is something that has leaked out of the initial approval that is going to affect their property values. He thinks that since the Council worked with the development of the project it has some responsibility to the property owners in Centerpointe East.

Kathleen Corum, 8315 Morrell Road, said that she wanted to point out that the City is contractually obligated to put the interchange at Side Road, per the Settlement Agreement. Also, several proposals were given to ADOT and if ADOT does approve C, it does not mean that no other proposal could be accepted. They would be choosing among alternatives and certain designs have been proposed.

Bruce Smith, 3119 Crestview Drive, said that of the options that have been proposed, they want to make sure that they understand that in 1998 Tom Foster who was with ADOT at the time is the one that approved it, and there was an intergovernmental agreement. It is not as simple as moving it from Side Road. His personal problem is that when he chose to purchase the property out there, at the time he could have gone right across the highway and bought property for a lot less. He bought this property because the interchange was slated to be put in at that location and he made a decision that his property would be of greater value to his business if he chose to build there, and better value if he chose to sell. He hopes that the Council takes that into consideration; his pocketbook is important.

Councilman Bell said that two or three times they have heard there has been dirt work out there, and asked if that was true. Mr. Nietupski said that the dirt work was done during the initial construction of 89A. The

Design Concept Report that proposed the interchange at Side Road was done in 1998 and since that time ADOT's access management criteria has changed and in as much as the changes that have occurred in that area, the updated Regional Transportation System, the analysis required in the development of this concept, all of those things led them to this conclusion. He understands that they have their interpretation of the agreement; he would suggest there is language in the amendment that provides for alternative sites. He said that it was a long and public process and was not kept a secret, and it was not until this last week that the property owners began participating in the process. He believes that they met the intent of the agreement.

Councilman Bell asked if they go ahead and approve this supplemental agreement, if the engineering firm could be of assistance in solving the problem. Mr. Nietupski said that they could.

COUNCILWOMAN SUTTLES MOVED TO APPROVE SUPPLEMENTAL AGREEMENT NO. 3 TO CONTRACT 2007-115 WITH PARSONS TRANSPORTATION GROUP FOR FINAL DESIGN OF THE GRADE SEPARATING TRAFFIC INTERCHANGE IN THE VICINITY OF SIDE ROAD AT SR89A IN THE AMOUNT OF $1,699,748.88; SECONDED BY COUNCILMAN BELL; PASSED 6 – 1 WITH COUNCILMAN LUZIUS CASTING THE DISSENTING VOTE.

B. Adoption of Resolution No. 3884-0852 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to enter into an Assignment Agreement Pertaining to the Amended Effluent Sales Agreement Contract No. 97-162A with Hassayampa Golf Club, L.L.C., thereby assigning the rights and obligations under the existing agreement, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Kidd said that following up on last week's discussion, this is a proposed assignment to the original contract between Troon Development. He said that it is a straight assignment and the new owners are assuming all of the rights of the original agreement. After the last meeting, there were further developments. The first issue was the $250,000.00 required under the original agreement that was to be a sinking fund to be used for replacing the effluent system. That check has been made by the proposed owners of the property under the assignment.

They have also submitted the financial records and also they have complied with the auditing requirements. At this point in time, they have brought the original obligations current.

The other issue was unrelated to the assignment and had to do with the dispute of some piping that was between two property owners. They are going to do a meeting with the attorneys involved in that on March 19. He received an e-mail from Mr. Musgrove, who is representing the homeowners, indicating that at this point they had no objection to the assignment and Mr. Atkinson is here on behalf of the purchasers.

Jim Atkinson, 1451 Bend Road, said that he is the attorney for the Club at Hassayampa and they did go ahead and close, noting that The Golf Club at Hassayampa is now the owner of the golf club. They are the local owners and in charge of taking control and operation of the golf club. As part of that agreement, the new entity assumed responsibility for resolving the problems with Mr. Musgrove's clients. There has been a meeting scheduled for next week where they will discover the problem, the steps to be taken, and a timetable to reach those goals. They are very optimistic and confident that they will be able to resolve the issue quickly. This is a clean assignment; his clients are assuming all responsibility and obligations. They have already cured two or three breaches in place and intend to operate in good faith under this agreement.

Councilman Luzius thanked Mr. Atkinson very much for putting together a very comprehensive package. He wanted to make certain that the property owners would be addressed, and he thanked him for the meeting.

COUNCILMAN BELL MOVED TO ADOPT RESOLUTION NO. 3884-0852; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

C. Recess into Executive Session.

COUNCILWOMAN SUTTLES MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN BELL; PASSED UNANIMOUSLY.

The Prescott City Council recessed into Executive Session at 4:33 p.m.

IV. EXECUTIVE SESSION:

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

1. Big Chino Water Ranch.

V. ADJOURNMENT

The Prescott City Council reconvened into Regular Session at 6:15 p.m. at which time the meeting of March 11, 2008 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 11th day of March, 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