

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/
SPECIAL MEETING
PRESCOTT, ARIZONA
MARCH 18, 2008

A JOINT STUDY SESSION/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MARCH 18, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Wilson called the meeting to order at 3:03 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor Dr. Vernon Rodgers of Prescott Christian Church

Pastor Vernon Rodgers of Prescott Christian Church gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Roecker

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

◆ **ROLL CALL:**

Present:

Absent:

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

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Mayor Wilson then read the following statement:

The Iraq War has touched Prescott again. On November 24, 2006, we lost our first Prescott resident. U.S. Army Private Reese Moreno was killed in Balad, Iraq and was assigned to the 92nd Engineer Battalion 3rd Sustainment Brigade, 3rd Infantry Division from Fort Stewart, Georgia. Recently, on March 12, 2008, Private First Class Tenzin Samten, 33 years of age of Prescott, was killed in

Tallil, Iraq, southwest of Nasiriyah, Ireq. Samten was a Motor Transfer Operator assigned to the 7th Special Troops Battalion, 7th Sustainment Brigade, 10th Mountain Division, which is light infantry out of Forth Eustis, Virginia. Samten enlisted in the Army in 2006 and received several medals. He is survived by his wife and two children. Our hearts go out to the family of PFC Samten in their time of sorrow.

He then read two poems in memory of Tenzin Samten. The first was written in 1847 by Theodore O'Hara, called *The Bivouac of the Dead*, and the second poem was written in 2002 by Roger Hancock, called *Not Free*.

After the poems were read, Mayor Wilson asked the Council and audience to bow their heads in a moment of silence.

City Manager Steve Norwood said that they saw a good presentation earlier regarding wildland fire efforts. He said that this week the City of Prescott and Embry-Riddle, along with the Wildfire Academy, are hosting a week-long conference with 1,000 people. They have people from all over the country attending and it is a great experience and good for the communities. He said that it is also good economically for the community, bringing in close to 1,000 rooms a night being booked in local hotels and everyone eating on their own. He said that they just signed a five-year commitment with Embry-Riddle so it will continue for the foreseeable future. He said that the local firefighters and administration group do a great job putting on this program.

STUDY SESSION

I. PRESENTATION

- A. Presentation on upcoming *Eggs-Travaganza* on March 22, 2008.

Becky Garvin gave a brief presentation on the upcoming *Eggs-Travaganza* Easter activities scheduled for March 22 from 9:00 a.m. to 3:00 p.m. in the courthouse square.

- B. Update by John Rasmussen, Water Advisory Committee (WAC) Coordinator, on WAC activities.

John Rasmussen, Water Advisory Committee (WAC) Coordinator, gave packet of information to each of the Council members and began review of the packet via a PowerPoint presentation, attached hereto as Exhibit A, and summarized as follows:

- ▶ Geology
- ▶ Boundary of the Upper Verde River Watershed
- ▶ Potential Recharge
- ▶ Excess Precipitation
- ▶ Water Level
- ▶ Thickness and Volume of Cenozoic Sediments
- ▶ Basic Thickness from Gravity Data
- ▶ Cross Sections
- ▶ Outline – WAC
- ▶ Membership
- ▶ Organizational Structure
- ▶ Annual Operating Budget
- ▶ Mission Statement
- ▶ Background & Goals
- ▶ Will Reach Goals By
- ▶ Benefits for Region
- ▶ Decision Support Model
- ▶ 2007 Highlights
- ▶ 2007 Highlights – Management
- ▶ 2007 Highlights – Education/outreach
- ▶ 2007 Highlights – Amended Structure
- ▶ Current WAC Priorities
- ▶ Policy Priorities
- ▶ Regional Planning through the Central Yavapai Highlands Water Resource Management Study (CYHWRMS)
- ▶ Appraisal Level

Mayor Wilson asked if was correct that the study would take three years. Mr. Rasmussen replied that was the schedule. Mayor Wilson said that if that study is favorable, then there is another study to determine a feasibility level. Mr. Rasmussen replied that was correct. He said that a large part of it is getting everyone around the table to agree.

- ▶ Schedule – Phase 1
- ▶ Phase 2
- ▶ Phase 3
- ▶ Phase 4
- ▶ Technical Priorities
- ▶ Primary Objectives of Model

- ▶ Data
- ▶ Scenario Development
- ▶ Future Direction

Councilman Lamerson said that he is glad that he and others like Jim Holt and John Munderloh are working together in regional cooperation on the issue of a long-term water policy, and he thanked him for his hard work.

Councilman Luzius thanked Mr. Rasmussen for his presentation.

C. Presentation by Sheriff Waugh re Illegal Immigration.

Sheriff Waugh said that immigration laws have changed over the last 40 years with the first major change in 1976. Prior to that time law enforcement officers, if they stopped an individual that didn't speak English and didn't have a Visa or green card, detained them and INS would go to the respective jails to determine if they were legal.

After 1976 some restrictions were placed, even though in Federal law there is the ability to detain under suspicion; however, most law enforcement agencies have not chosen to exercise that. One reason is that if the individual detained is legally in the country then there is problem with law suits, etc.

Sheriff Waugh said that where they are today is based upon more recent decisions, and most law enforcement agencies, even though they may exercise that authority, have chosen to go to 287G, and that is a provision within Federal immigration that allows local law enforcement officers to act as Federal agencies for ICE, but the process is not an easy one.

He said that prior to November 2006, if law enforcement individuals made a traffic stop or temporary detention, they would call ICE and ask them to respond and determine whether they were illegal. Historically, because they are in Central Arizona and Phoenix is the county that takes all of the resources, they would not respond. The last incident they had was in December 2005 where they had interdicted a number of human traffickers on I-40.

That has been the case until November of 2006, where Arizona Sheriffs met with Special Agent in Charge of ICE in Phoenix, Pena, and they advised him that there are other counties in Arizona besides Maricopa. As a result, a number of new policies were implemented by ICE, but they weren't effective until April of 2007. They've been working under those guidelines since then, and they established four avenues for law enforcement agencies to determine legalities of individuals.

First, which they exercise quite frequently, is a 24 hour hotline to ICE headquarters. Most recently, a week ago Saturday they did two stops where 27 individuals were being transported, ICE placed a detainer, and as a result they held them.

In addition to that process, once an individual arrives in one of two jail facilities, they determine their legal status at that time. Based on a criminal violation, whether it is with Prescott Police Department, Prescott Valley Police Department, or others, they can make an arrest for criminal violation and detain them, and then they do research to determine if they are legal.

As a result of that, depending on the County Attorney, they may go through the entire prosecutorial process and at conclusion, they would transfer them to ICE in Florence, and they make a final decision.

Third, they now have video conferencing with ICE so if an individual comes into the facility, and they think they're illegal they will put detainees on them using the video conferencing.

Fourth is getting 287G training. That gives them authority and the right in an environment outside of the jail to determine if someone is illegally within US. As a result of that, an agent can place a detainer that is binding, they would be transported to jail and then they would coordinate with ICE to pick them up.

However, to get 287G is an arduous process at best. They've been in process for 1 ½ years and they finally got six in school. He said that they are the only northern law enforcement agency and only County.

He said that the process requires three audits by ICE where twice they came to the jail to determine whether they met their criteria and whether the facility maintained standards for illegal immigrants.

He said that in their case, and consistent with most law enforcement agencies, they entered into a Memorandum of Understanding (MOU), which is required before they get schooling. In the 1 ½ year period they have had weekly conversations with ICE representatives and monthly meetings with Assistant Secretary of Homeland Security in Washington, DC, and there were negotiations going back and forth. As a result, they signed the MOU and have been given ten slots; six for the current class and four for future classes. They sent detention officers through the first round.

He said that since April of 2007, the Sheriff's Office has transferred for deportation hearings around 900 illegal immigrants. They have been very aggressive in interdicting human trafficking and alternate routes.

Sheriff Waugh said that his suggestion at this point, until they go forward with 287G, consists of a few options. First, if an individual within the community is violating one of the ordinances, they arrest them for violation of that ordinance, bring them to the jail and they determine whether they are within the country, and as a result they can forward that information to the city attorney and he can make a prosecutorial decision on how justice would best be served—whether transporting for deportation or going forward on criminal prosecution.

Second, once they have the training, they can do a cooperative effort by request basis to do some other interdiction things. ICE will not support roundups, or sweeps. They are basically willing to support them with criminal violations, 287G training to identify as illegal, or through the detainer process which they have control over.

He said that the County is happy to work with Prescott Police Department in those areas they can support them, but a decision needs to be made by Council as to what their enforcement effort is going to be. That direction would then need to be directed to Chief Oaks. Presently, the best course of action is to arrest on criminal violation and let the jail determine illegality of being here, provide that to the prosecutor and then the prosecutor determines best justice.

He said that even if they prosecute, they stay in jail. The downside of 287G is if they get training and do detention of illegal immigrants, the Federal housing and transportation, and everything relative to it, is on the arresting agency's dollar. That is why he suggests that they look at Option One first.

Mayor Wilson said that the Sheriff mentioned the 900 detained and deported. Sheriff Waugh said that they transferred them for deportation hearings to Florence or Phoenix and that was covered by Federal funds for an average of \$180,000 a year. He said that the last check was for \$200,000+ but they are usually a year in arrears. He said that it costs them \$79 a day to house an inmate. He said that 14% of the inmates in their facility are illegal immigrants being held on criminal charges that have been levied against them by all law enforcement agencies within Yavapai County.

He said that the reason they are doing the 287G training is because they feel they have a significant problem and they want to be able to offer to the County Attorney the same thing he is offering to the city attorney, to

give them the information that the individual is illegally within the country and let them make a decision as to whether to deport or prosecute.

Councilman Lamerson said that he thanked the Sheriff for being there. The meeting has been overdue. He heard about the 900 illegal aliens, but he didn't hear how many illegal employers there were. He said that if he is not mistaken, it is illegal to hire illegal aliens. Sheriff Waugh said that is true as of January 1, 2008.

Councilman Lamerson asked if there was something that the City of Prescott and Yavapai County Sheriff's Office can collaborate on with regard to prosecuting the users. He said that it is like drugs where they have an addict and they have a dealer and their chance of having as many addicts goes away if they eliminate the dealers.

Sheriff Waugh said that he cannot speak at length about the sanction law; it is very complex. The County Attorney is responsible for investigating and sanctioning the employers that are violating that law. Mayor Wilson noted that she would be at the next meeting.

Sheriff Waugh said that no law enforcement agencies have authority in investigating or doing any sanctions against businesses because it is a civil crime, not a criminal crime. He said that the County Attorney has been given \$71,000 in 2008 to do investigations and prosecutions.

Councilman Lamerson said that as a legislator for the City of Prescott it is all on his mind, that it is not just those crossing the border illegally, it is also those hiring them illegally.

Councilwoman Suttles said that she appreciated the Sheriff's tenacity to make sure they are recognized to pull some of those officers out of Maricopa County. She said that the City tried it two years ago with just two slots. She hopes the remaining four make the cut. She said that they are now beginning to do some things with these officers. She said that she appreciates the offer given the City to work with them since they don't have their own officers. To know that they are talking regionally, and the City and others will be going to the County a lot.

Sheriff Waugh said that he has been in law enforcement for a long time. The old concept with law enforcement was "displacement" where if they put enough pressure on a problem it moves to someone else's area. He said that it is what they did in Las Vegas.

Councilman Roecker asked if a Prescott Police Department officer arrests someone today for a misdemeanor, they can call his department if they suspect they are an illegal alien and turn them over to them under the ICE

provision. Sheriff Waugh said that if someone is arrested for a criminal violation, they will be brought to the Prescott facility, and the officer can mention that to them, however, they do it automatically. The criterion is birth place origin.

Councilman Roecker asked if the City continues to pay for the individual once they are at the County jail. Sheriff Waugh said that if they are there on a criminal violation, then it is covered under the Jail District, and they place a detainer on them because it is an ICE detainer. Once they have the 287G training, they will place the detainer on them, and as a result, it will be an issue of being on the County dime. If they place a detainer on them in the field for immigration violation, then the dime is the City's.

Councilman asked if it would be wise or prudent for one of the four slots the County has available to be used for a Prescott Police officer. Sheriff Waugh said that they will not provide training to a law enforcement agency unless they have an MOU with that legislative body.

Councilman Roecker asked if Sheriff Waugh would be willing to give the City one of those four slots if the City was able to sign an MOU. He then asked Mr. Norwood if they could do that. Mr. Norwood said that they could, but he would like to talk with Chief Oaks. Sheriff Waugh said that he would probably be willing to give up one of the slots if the City met the other requirements.

Mayor Wilson asked Mr. Kidd to update everyone on the status of the City's MOU. Mr. Kidd said that the City sent out the MOU last summer and they received some e-mails last week and had contact with the Special Agent in Charge. He said that the City was offered positions for their jail, and he explained that the City does not have a jail. There are four different kinds of 287G training; gang activity, general task force (general criminal activity), and another general law enforcement task force, and then jail. ICE has given preference to the jail IGA's primarily because of the issue of probable cause. Once officers make the arrest, it is not an ICE arrest and the Federal government is not on the hook as to whether or not there is a false arrest or possible claim on that issue.

Councilman Roecker asked if they should take advantage of that to get one of their police officers ICE trained. Mr. Kidd said that if they could use it for Task Force purposes, yes. They may have to have them assigned to the jail. Sheriff Waugh said that their next four slots are for task force officers.

Sheriff said that once they have that certification, then they have more flexibility in how they can deal with a problem.

Councilman Luzius thanked Sheriff Waugh, stating it had been very informative. He said that it seems like the country has enough Federal laws to keep the border from becoming as porous as it is and yet the Federal government sits on their hands and does nothing.

Councilman Luzius read an article out the Courier, reporting on activity in the City a year ago, which indicated that Chief Oaks stated that the Police Department had heard the Council's comments loud and clear on the need to deal with illegal immigration. Councilman Luzius said that he thinks it is about time that the Chief does as much as he can, and they need to get the MOU done and get a slot to get someone trained. He asked if there was any resource through the Department of Health, as he understood that they are going under the tunnel on Miller Valley Road and using it for a bathroom, which in turns ends up in the streams. Sheriff Waugh said that would probably be a violation of a City ordinance, and as a result that is where they could exercise the criminal violation and then bring them to the County.

Councilman Bell asked if the Sheriff can put a detainer on the people or determine their legality now. Sheriff Waugh said that they do that now once they arrive at the jail. In the field environment, they do it through the 24-hour hotline and ICE places the detainer.

Councilman Bell said that his understanding then is that if the Council decided to do that and directed the Chief to do so, they could do that now. Mayor Wilson said that the problem with probable cause is it needs interpretation because they could have a civil rights violation if they start profiling.

Sheriff Waugh said that most interdiction stops done on I-40 and elsewhere is because they are doing a criminal violation, such as weaving, speeding, or have a vehicle violation. They stop them and look in the back and see 20 people; then, probable cause exists. He said that if they are not able to communicate with them, they can call ICE and they will have them talk to them. They can tell them if they are legal or not, and they do that every day.

Mr. Norwood said that he can assure the Council that Chief Oaks is working on the issue. It is not an easy stretch. If they see someone doing an illegal act, they will be arrested. They have made application for 287G. He said that they have been in this for nine months and they are doing everything they can and it does not move quickly. He said that he can read the frustration level loud and clear, but it is also a frustration level on the part of the officers and Police administration, and equally frustrating from the Sheriff's standpoint.

Councilwoman Lopas thanked Sheriff Waugh for the presentation. She said that it is disgusting how the process works and her blood is boiling. To hear that there is such an audit process, that the jails are good enough for American citizens, but not good enough for illegal citizens is not right.

Sheriff Waugh gave an example of what they standard they did not meet for detention of ICE inmates, even though they contract for services with ICE. They use tazers to protect the officers as well as inmates and that is prohibitive by Federal immigration law. They chose to say fine, if they don't want them to house their inmates, they still are going to use them as a safety measure, and ICE waived that.

Councilman Lamerson asked the city attorney if there were no mechanisms available today for employers that hire someone illegally. He asked if it was not required of all employers to check paperwork that documents have been seen that show citizenship. Mr. Kidd said that is required of everyone with one exception--occasional labor under Federal statutes. There is a new state law that gives employers the ability to check Federal records and that has been a missing component. Now they can check for fake identification. Councilman Lamerson asked if there was something that the City, as a legislative authority in the community, can do to ensure that employers in the community are doing what they are supposed to do when it comes to performing their part of the rules.

Mr. Kidd said that the Legal Works Act does not give a penalty for employers that do not comply with that process yet. There are amendments going through the process and if those amendments give some authority to the cities, they can, but right now it is just authority to the counties.

Deputy Police Chief Kabbel said that the City Manager was correct when he said that they have been doing as much as they can when it comes to arresting people. They put them in jail. If they are in the City illegally, then the Sheriff's Office and jail staff has done the work to have holds placed on them. He said that he can assure them that many of 900 mentioned were from Prescott Police Department arrests.

He said that as far as the 287G program, they have been working on it endlessly, but they run into more walls. They have been working with Special Agent Jason Kidd, and they were told last week that the only way they could go through the 287G is (1) if they have a jail and (2) if they were part of a task force in Yavapai County in which ICE sponsored it. They were told last Wednesday that ICE was not going to sponsor a task force in Yavapai County anytime in the near future.

He said that in working with Sheriff's Office and other alternatives, they

are happy to do that and they will see if there is a way to enhance the system.

Sheriff Waugh said that their next four slots will be for task force officers. He said that they have done several task force operations with ICE, the most recent one the Prescott Police Department was involved with, where they arrested 35 people under Felony warrants and the County arrested around 50. There is a showing of cooperation and he is willing to extend the olive branch by giving up one of the four slots, as long as they have jumped through the other hoops necessary. He does not want to give up a slot and then have them not jump through the hoops and lose it.

Mayor Wilson asked if the video conferencing was in both jail facilities. Sheriff Waugh said that it was. Mayor Wilson asked for an update on live scan and where they stand with it. Sheriff Waugh said that they will not be able to live scan until they have the 287G people, which is the two-finger identification. They have live scan for criminal history information now at the State level, but the two-finger identification is a proviso with an ICE intelligence computer that is not permitted until they have the 287G training.

Councilwoman Suttles said that the City is at a stalemate, but the County is able to go forward now. Until something happens for the City of Prescott, the partnership they do have with the County is great and she is excited that they have that.

Sheriff Waugh said that they offered to provide space and housing for them to train individual police agencies that wanted to participate in 287G, but they refused. ICE tried to establish an office in Flagstaff and Coconino County is not interested in 287G training.

Mayor Wilson asked if it would do any good to talk with the US Congressional delegates to put pressure on ICE. Sheriff Waugh said that it wouldn't hurt.

I. DISCUSSION ITEMS

- A. Public Hearing (March 25) and discussion of Draft FY 2008 Annual Action Plan associated with the City's Community Development Block Grant (CDBG) Program.

Linda Hartmann said that the public hearing is actually scheduled for next Tuesday, March 25, but they can talk about it today. She said that this is their fourth time going around with CDBG. There are three national objectives having to do with CDBG.

1. Benefit to low-moderate income, which is one of the primary focuses, and it can be an activity that is an area benefit, a limited clientele activity, housing or job creation and retention.
2. Prevent or eliminate slum and blight and they can address them on an area basis, spot basis or urban renewal basis.
3. Community development need, as in health and safety issues.

She said that in the beginning of November she contacted 37 non-profit organizations within the area asking them to attend a public hearing on 11/26 to discuss projects. She advertised the meeting with display ads, public notices and had an ad in a free newsletter. They had 9 proposals from 7 agencies, 1 of which was the City.

The three recommendations from the Committee are:

1. Dexter Neighborhood Street Improvements, where they want to do as much as they can on Campbell. The project would take funding carried over from 06-07 and a portion of 08 for \$257,000.
2. West Yavapai Guidance Center Hillside. This is going to close the way it functions right now and they want to renovate and remodel. They will have more residential treatment plans, and this would allow 216 more people to have residential care. 80% of them are low to moderate, so this is a big area benefit as well.
3. Habitat for Humanity. They have a program called Brush with Kindness and have requested \$50,000 for tools and a tool carrier. They want to renovate 10 homes each year. They are external improvements to property – roofs, paints, fences, etc. and it sometimes helps people to make things pretty. These would all be within 30-60% median income level.

Ms. Hartmann said that the Plan is out to the public right now for a 30-day comment period, which ends on April 11 and she will bring this back to the Council on the 29th with any comments from the public incorporated into it.

Councilwoman Suttles said that she thought that they talked about the Dexter Neighborhood trying to get some street lighting. Ms. Hartmann said that they are working on street lights this year.

- B. Approval of contract with UNICO Universal for the Dexter Neighborhood Sidewalk Improvements/Merritt in an amount not to exceed \$100,587.70.

Ms. Hartmann said that this is a contract for Dexter Sidewalk Improvements which is a continuation of efforts to expand sidewalks in the Dexter area. She said that it went out to the public on 2/10 inviting bids and they received four, all of which were very close. UNICO Universal was the successful bidder and she has checked all of their credentials and everyone that they spoke with were quite pleased with them, including their competitors.

Councilwoman Suttles asked where UNICO was from. Ms. Hartmann said that they are local and are picking up City of Prescott contracts as well.

- C. Adoption of Ordinance No. 4644-0846 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the granting of certain underground power line easement rights to Arizona Public Service Company (APS) to provide for the installation of updated electrical facilities for 21 portable hangars to be relocated by 2251 Ruger L.L.C. to a new location of the Prescott Municipal Airport and authorizing the Mayor and staff to execute all necessary sale and conveyance documents.

Airport Manager Ben Vardiman said that this item is a request for approval of an electrical easement for APS, located on the north ramp behind the relocation area of the T-hangars, being undertaken by 2251 Ruger LLC. The City will receive compensation of \$1 for authorization.

- D. Approval of an engineering services agreement with Ninyo & Moore for quality assurance testing services for City streets and utilities projects, in an amount not to exceed \$100,000.00.

Mr. Nietupski said that this is a request for an annual quality assurance contract for testing of materials for projects on streets, utilities. It is an ongoing annual contract which they do and went through a process, soliciting Statements of Qualifications. They had five responding firms, ranked, short-listed and interviewed.

Councilman Bell asked if they had a similar contract last year. Mr. Nietupski said that they, capped at \$100,000, and they are approaching that cap.

- E. Acceptance of proposal and approval of contract with Horizon Airlines for airline service between Prescott Municipal Airport and Los Angeles International Airport.

Economic Development Director Jane Bristol said that this is continuation of discussions regarding an air service company to provide passenger service from Prescott to LAX. She said that they are now at liberty to reveal the partner City and airline. She said that Flagstaff is the partner City and both of the communities issued Requests for Proposals to be sure there were not any others interested. Both are sharing in all aspects of the incentive package.

She said that this will provide two nonstop flights from Flagstaff to LAX starting in June. Prescott's service to LAX would start in September, because there are more extensive improvements needed to make to their airport terminal useable and the airline needs 90 days to get everything loaded into the schedule and have their ticket selling available. Flagstaff is not in that situation.

She said that the Flagstaff City Council discussed this at their work session yesterday and will actually vote on it later today. All indications are that they will proceed with the service.

Horizon Airlines was the only response to the City's request for proposals. They are the eighth largest regional airline in the United States, and they have operations in Canada and Mexico as well. They are affiliated with Alaska Air. She gave a PowerPoint presentation, attached hereto as Exhibit B.

- ▶ Response to RF
- ▶ Type of Aircraft
- ▶ Horizon's Current LAX Operations
- ▶ Improvements
- ▶ Terminal Diagram
- ▶ Other Possibilities
- ▶ Relocating Shade Hangar
- ▶ Benefits to Love Field
- ▶ Economic Impact
- ▶ Regional Participation
- ▶ Local marketing
- ▶ Air Service Costs Comparisons

Ms. Bristol summarized the presentation, stating that this is tremendous opportunity for the airport, residents, businesses, etc. and they do expect to have a draft contract for next week's meeting.

Councilman Luzius said that it showed that there will be two flights out of Flagstaff in June, and in September there are still two flights from Flagstaff and one from Prescott. He asked if Flagstaff was getting twice as many flights. Ms. Bristol said that all of the flights originate in Flagstaff and would be based there. The second nonstop flight will stop in Prescott once the improvements are made at the airport.

Councilman Luzius asked if Flagstaff was contributing. Ms. Bristol said that the breakdown is 70% Flagstaff and 30% Prescott.

Councilman Luzius said that the revenue guarantee was required only when passenger loads do not meet expectations, and asked what those expectations are. Ms. Bristol said that there is a load factor of 78% that the airline needs to meet in order for the service to be successful. If there is any percentage less than that, they would have to pay some portion to the airline per their calculations. She said that it could be \$0 or it could be up to the \$142,000.00; a little less if Prescott Valley contributes.

Councilman Luzius said that he is all for the service, he is just trying to understand what they have to do to get away from paying the subsidy. He asked if the County has been asked to participate or contribute in any way. Ms. Bristol said that she addressed them yesterday and they will not be going forward; they did not vote on it.

Councilwoman Suttles said that they have talked about the airport the last three re\treats as to the potential they have. She said that timing looks good, but like everything else, she doesn't know if this is where they should go right now because of the economy. It is a regional airport and asked what type of response was received. Ms. Bristol said that the only positive response was from Prescott Valley. She said that the economic times are difficult and revenues are scarce. They were either reluctant or unable to participate.

Ms. Bristol said that they are looking at being able to use some funds available in the current fiscal year under airport operations and the economic development funds for marketing. They will provide a decision package for fiscal year 2009 to take care of the subsidy amount, if it were needed.

Councilwoman Suttles asked if the temporary changes at the airport would cause problems when they get ready to do some big improvements. Mr. Vardiman said that this will be an upfront cost, but it would allow them to

recoup the expense. Anything they do out there to enhance capability becomes a revenue-generating potential. Right now they are charging \$24.75/sq. ft. per year for use of the terminal space. While they are waiving that for the first year, in the second year and later that revenue will be coming in and increase into the airport.

Councilman Bell asked if they fall just short of the revenue guarantee, if they would just owe a percentage. Ms. Bristol said that was correct; they would owe up to the \$142,000 per contract. She said that they would enter into a separate IGA with Prescott Valley to set out their participating levels.

Councilman Bell said that he heard a soundbite from Supervisor Thurman where he addressed this issue, and he said that they are all for it, but the County has never set aside money for economic development.

Councilwoman Lopas said that she is excited. She asked if there was a backup overnight plan when Flagstaff gets snow. Mr. Vardiman said that they are discussing that with the airline. It is an operational decision. He said that although Prescott does tend to have more favorable weather, Flagstaff does have the capability to de-ice and do maintenance.

Councilwoman Lopas said that this is almost the first step toward an airport authority and she is glad that Prescott Valley is willing to consider this.

Councilman Roecker asked if they have done the math; if they will get to 10,000 enplanements, and if they do will they have to pay the \$142,000. Mr. Vardiman said that if they are 78% load factor, that means approximately 30 passengers per flight and in addition to what they are doing now, of about 20-30, they will be looking at 1400 passengers a month, and that will put them there. He said that the 78% is Flagstaff and Prescott together.

Councilman Roecker asked if staff knew what their on-time ratio was. Mr. Vardiman said that he did not know off hand, but would check on it.

Councilman Lamerson said that at the last plenary session the City Council has repeatedly identified the airport as a monumental thing for the City; one of the investments in the community's future. He views this as an opportunity, and he appreciated Prescott Valley stepping up. He is sure that if economic times were better others would do the same. He said that it's a priority issue. They saw the fire people show importance of airport. Viability of that airport will be expanded, and he supports what they're going to do.

Mr. Norwood said that the facility improvements in the \$130,000 range were really challenging, but when they step back from that it illustrates staff's and Council's frustration with the facility out there. It is extremely inadequate; 60 years old. They are also hearing rumbling that Mesa is in the process of phasing out their 19-seat aircraft which currently serves Prescott to Phoenix and Prescott to Las Vegas, and they would be going with a 34-seat plane. They would be required to do this anyway; they could not accommodate 34 passengers in the waiting area with security.

Mayor Wilson congratulated Ms. Bristol for taking on a very fast-track process that they had to work on under the cloak of darkness. He congratulated them on the success in regional cooperation and congratulated Mr. Vardiman for supporting her in the effort.

Councilwoman asked if this should be on consent or pull. Mr. Norwood said that if something should come up, they can always pull it from the consent agenda at the meeting.

Councilman Luzius asked if they were going to charge for parking. Ms. Bristol said that is an operational decision. Mr. Vardiman said that one of the advantages of flying out of Prescott is they don't charge for parking. That has been an operational decision and a real benefit that they don't have to pay \$25 a night. Councilman Luzius said that he thinks they should charge a token charge. Mr. Norwood said that the plans for the new terminal would include charging for parking.

Vernon Brown, 2933 South Park, Prescott, said that the proposal sounds very good. He knows that if he were sitting there trying to approve, he would like a lot more information about the probability of success. He asked if a survey should be taken to show what their current passenger load is plus passenger load on the shuttle to the Phoenix airport, including where they go to and come from. Then they could compute how many passengers they could get. With the presentation today, he couldn't comprehend.

Ms. Bristol said that the airline itself did a lot of background work assessing the market before they even came forward. She said that the subsidy, if paid, would only for the first year. In their history, they have never started a new service and stopped; it has always grown. They looked closely at Flagstaff and Flagstaff did a market study of their area and found widespread support, which bodes well for Prescott as well.

- F. Approval to purchase the Tyson property located on Cortez (next to City Hall) in the amount an amount of \$257,000.00.

Mr. Kidd said that staff has been involved for the past several months in a negotiation with the attorney for Ethyl Tyson who owns the house next to the Legal Building. The City has been interested in buying her home and she has been talked to over the years by the City. As a result of the City's real estate agent initiating discussions with and her attorney, they have been able to agree to terms.

He said that the purchase price was \$257,000.00, which was based upon two appraisals—one for her and one for the City. The City's was actually higher than that amount. He said that the proposed agreement provides for life estates for Ms. Tyson and gives her the option to move earlier if she chose, and the City would assist the cost of moving. She would retain the family heirlooms and the house would be donated to the Prescott Historical Society, who can proceed with restoration, should they decide to.

He said that this item is requesting authorization to go forward with the purchase. They would go into escrow and come back to the Council for approval of a deed.

Councilwoman Suttles asked why the City wants this property. Mr. Norwood said that in past discussions with Mayor and Council it was clear direction to staff that any time the City could acquire property within the block between Marina and Cortez, and Carleton and Goodwin, that they should pursue it. This one is critical because where it is placed it extremely limits the City's ability to expand, either City Hall or the Police Department.

Councilwoman Suttles said that they have City property that they are not using, such as the two lots down by the old Adult Center, and asked if that could be sold to offset costs. Mr. Norwood said that within the next 30-45 days they will be going out for solicitation to sell the Sixth Street location as well as the Aubrey location. Those are two key parcels and very valuable.

Mayor Wilson referred to Clause 9 in the contract, the third line, with regard to relocation of the building. Mr. Kidd said that it gives them the ability to relocate the building, with the understanding that someone else would do it, and it would be donated to the Historical Society. He said that they should be read together.

- G. Approval of contract for outside counsel in the Mason/Griffin v. City of Prescott case.

Mr. Kidd said that this is request for approval for outside counsel in the Mason/Griffin v. City of Prescott case. He said that it is a complex law suit including three plaintiffs, four defendants, and there may be more. It involves civil rights claims and they are asking for outside counsel. The City will provide Tom Lloyd as the assigned primary counsel, but it will be substantial litigation.

Councilwoman Suttles asked whose budget this comes out of. Mr. Kidd said that it would come out of the Risk Management Division, which is under Legal.

- H. Approval of the Minutes of the Prescott City Council Workshop of February 26, 2008 and the Study Session of March 4, 2008.
- I. Selection of Items to be placed on the Regular Voting Meeting Agenda of March 25, 2008.

Councilwoman Suttles stated that the following items would be placed on the consent agenda: B, C, D, E, F, G, and H; A is a public hearing and will go on the regular agenda.

III. ADJOURNMENT

There being no further business to be discussed at the meeting, the Study Session of the Prescott City Council of March 18, 2008 adjourned at 5:22 p.m.

SPECIAL MEETING

- I. Call to order.

The Special Meeting of the Prescott City Council of March 18, 2008, was called to order at 5:28 p.m.

**COUNCILWOMAN LOPAS MOVED TO RECESS INTO EXECUTIVE SESSION;
SECONDED BY MAYOR WILSON; PASSED UNANIMOUSLY.**

The Special Meeting of the Prescott City Council of March 18, 2008, recessed into Executive Session at 5:28 p.m.

- II. Recess into Executive Session.

III. EXECUTIVE SESSION:

A. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to A.R.S. Section 38-431.03(A)(7).

1. Possible purchase of property in the Granite Dells area.

IV. Adjournment.

The Prescott City Council reconvened into Open Session at 5:56 p.m. at which time the Special Meeting of March 18, 2008 was adjourned.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk