

PRESCOTT CITY COUNCIL  
WORKSHOP  
PRESCOTT, ARIZONA  
MARCH 25, 2008

A WORKSHOP OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MARCH 25, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ CALL TO ORDER

Mayor Wilson called the Workshop to order at 1:30 p.m.

◆ ROLL CALL

PRESENT:

ABSENT:

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

None

1. Discussion of policy for extending City service into unsewered developed areas.

Mr. McConnell said that this is the third workshop on this issue, and it was chosen as a top priority by Council at their retreat in January. He noted that the first draft of updated water and sewer fees is scheduled to be presented on April 1, 2008, and within that there are several things interlinked—unsewered areas, rates and fees, policies. He said that Exhibit 4 in the packet provides the respective time frames for reference.

He said that following the past workshop on February 26, the Water Infrastructure Finance Authority of Arizona (WIFA) did confirm that financing for a sewer retrofit program is available at a favorable rate.

Mr. McConnell then began review of the Policy Framework, noting that it had been provided previously; today they would be addressing Items 2 through 4, and the remaining items would be addressed at a later date.

On February 26, 2008, they talked at length about identification of service extension areas, candidates for future sewerage and the recommendation based on those discussions was that they focus on the four areas listed on Table A, attached hereto, at a total estimated construction cost of \$8 million.

## Policy Framework

1. -
2. Connection policy when sewer is available (mandatory or permissive)  
Reference: Exhibit I  
  
This item is to consider whether the City would create a mandatory connection policy or a permissive policy, which means that even if sewer was in the street out in front of a property, it would be up to the property owner to elect to connect, in the absence of some compelling health issue.
3. Financing alternatives and determination of preferred method  
Reference: Exhibit II
4. Supplemental funding from Sewer Fund and/or other participation, if any.  
This is a new matrix which incorporates Items 2 and 3.  
Reference: Exhibit V

### **Exhibit V**

Mr. McConnell said that this exhibit incorporates material from Items 2 and 3. He said that the top row shows the various mechanisms for implementing new sewer systems in the areas on Table A and how that would be done. Along the left side are the two alternatives—Mandatory Connections and Nonmandatory Connections.

The first column (mechanism), which is Improvement District, includes combinations of improvement districts and connection alternatives.

The second mechanism is a Reimbursement District, where the City would create a district; a map of the district is created and recorded, but there is no district or votes involved. The cost of the system is prorated among the benefiting properties. A difference is that the property owner has to obtain their own financing.

He said that theoretically there may be a combination of Reimbursement District and mandatory connection. He and the City Attorney have discussed that and it may be legally possible, but no one is doing it. Usually when there is a Reimbursement District, it is open-ended, meaning the District is created, there are benefiting properties shown on the map and whenever someone has to connect because of a failing septic, or they chose to connect, that is when they would connect and pay the cost of reimbursement of that property.

The third mechanism is the Sewer Fund, which is if they had an existing subdivision, there was no system, a decision was made to do a retrofit project to put in a new system—there is no district involved and the existing sewer

customers finance the capital costs. The property owner has to obtain their own financing. They really cannot borrow money for this on the basis of connections, but they can borrow money as a more general obligation of the Sewer Fund because at the end of the day it is an enterprise fund with a revenue stream. If that revenue stream is sufficient, then it could be used to pay interest on bonds.

He said that is where the equity issue comes in, that existing sewer customers would be financing and/or contributing to the system extension, but would receive little if any direct benefit. If there was a quality issue and the State required it be cleaned up, one thing that could be done is to install central sewer in areas with failing septic tanks, then it would contribute to abating that public health issue.

Mr. McConnell then reviewed a summary of the cost components for the mechanisms just discussed. In a new subdivision a public sewer system is created, and those costs are passed through to the new residents in the cost of the home, so they are paying for that new system. Cost component No. 2 is that the development has an impact on the City's collection and recharge system. The way the City recovers the cost of that incrementally is through the impact, or buy-in, fees that they collect when building permits are issued. The third cost component is the on-site connection to the City sewer system for the new lots and homes and that is provided by the homebuilder and the cost is passed through in the cost of the home.

He said that the other combinations talked about, in reviewing the form, in an existing subdivision with a sewer retrofit by the Sewer Fund, cost component No. 1, the sewer system would be constructed by the Sewer Fund. That is different than in a new subdivision. Now they have the Sewer Fund connecting the system and the properties in that subdivision are not being directly assessed for that improvement, and that is where the equity issue comes into play. Cost component No. 2, as new demand is created by the retrofit project, is through the impact fees, the property owner has to obtain his own financing, and cost component No. 3 in a retrofit situation is the on-site connection, and that is from abandoning the septic tank and connecting to the system, the property owner is responsible and has to get their own financing.

He then reviewed the process for mandatory connection to the sewer system. If the City elects to create a mandatory requirement for connection to the system, it is done by a City Ordinance which would prescribe connection criteria associated with it.

There would have to be sewer available, and there are varying definitions of the availability of sewer; sometimes it is at the property lines and sometimes it within some distance from the property line. That ordinance could prescribe time frames, a specified number of days, months or years. Another criterion could be the sale of the property, which is the way they do it in a city in Montana.

He said that if connection is mandatory, but the property owner does not comply,

the question is what they would do. They could take him to court and get a judgment, but if they have 200 noncomplying property owners, that is a lot of litigation. They would have to get a judgment, and in association with it, there would be a lien on the property, but they may still not be able to physically connect them. There could also be other civil penalties.

He said that in Surprise, Arizona they have a provision of their City Code which provides for a monetary penalty for each month of nonconnection. Instead of having to go to court on the first day, the meter runs for that property and a penalty accrues.

Mr. McConnell said that was the extent of his presentation; all of the exhibits are in their packets, but the focus today was on discussing and obtaining public input on two things:

1. What might be the appropriate financing mechanism for a retrofit program?
  - a. Improvement District,
  - b. Reimbursement District, or
  - c. Sewer Fund, and
2. Is the City going to require mandatory connection and, if so, what the criteria would be?

He reminded everyone that today is a workshop; it is not about making decisions, but about talking through a very complicated issue in a way which associates it with the budget information and the rates/fees they are going to see in the near future.

Councilwoman Suttles said that she was disappointed with the number of people in the audience. She said that they have talked about the issue on two different occasions and she's afraid they'll make a decision and then get a comment that they don't want. She asked if everyone was aware of the meetings.

Mr. McConnell said that there have been articles in the paper. He said that the City has not sent individual notices to 600 property owners because they are still talking about the policy framework. If the Council comes up with one or more alternatives, that would be the time to get the information out. There would be different venues for public input and those opportunities are still there as they go forward.

Councilman Luzius said that he disagreed; he believes that the citizens should have been notified. It may take a longer time to get through, but at least they would have their input, rather than come back six months

Mayor Wilson said that he would argue that they have 16,800 current sewer

customers, and he would ask who they would notify; they could all potentially be involved.

Councilman Luzius said that another problem he has is that in a new subdivision they are paying to have sewer through the purchase price of the house and paying impact fees, and then the City could be asking him to pay again.

Mr. McConnell said that is the equity issue they have talked about repeatedly. The difficulty with the issue of retrofitting sewer includes the equity issue as well as the practical way of doing a program like this, if it can be done because of the legal mechanisms that can and cannot be used.

Mayor Wilson asked if they would have to get financing of some sort if they did it out of the Sewer Fund. Mr. McConnell said that was correct.

Councilman Lamerson said that year after year when they discuss this issue, he has brought up the idea of public health and safety issue, and he understands that if they have an individual, or a few, with failing septic tanks, they have that issue. He has asked several times for a health assessment of the exact number of such failing septic systems.

Mr. McConnell said that the County Health Department does not keep records that would enable them to do a sort; it would require looking through all of those files. He said that staff has tried to go at this from a different direction, of the 16,800 existing customers they have, to put into perspective and identify what the suspected sources of public health issues are, and they have identified those four areas outlined in Table A.

He said that Table A shows those areas from which they have had calls and comments, and where they have had to replace the septic tanks. From a program standpoint, that is meaningful information. It is some percentage of 600, not 6,000, and from a program standpoint, that is meaningful information. Then the question becomes what the relative magnitude is of creating a program, and they have talked about a construction cost of maybe \$8 million. He said that they then need to consider how that compares to the capital program of the Sewer Fund which they will hear about on April 1, and whether it would be a significant part. If the City embarks on a very aggressive, multiyear capital improvement program for the wastewater system and provides financing through rates to do that, then the cost of adding unsewered areas may be at five percent of that total program. That will be the question—if it is something as a City they can get their arms around.

Mayor Wilson said that Prescott Creeks has been monitoring impairments, so they may want to talk with them. He knows it is not prima facie set of evidence, but it may be additional evidence for the Council.

Councilman Lamerson said that he appreciates the input, but he also appreciates

the comments about the equality issue. He is not sure that alternative septic tanks are any better. He asked if it would be cheaper to require alternative tanks for those that have failing tanks than to build an \$8 million system. He said that if they are looking at 600 alternative systems, that does not resolve the effluent issue, the recharge issue and the delivering of water.

He said that he has not gotten a grip on the justification of requiring 16,800 people to pay the total cost for the problem of 200 or 300 people, unless they can demonstrate that all 16,000 are subject to the health ramifications of the creeks and lakes being polluted.

Mr. McConnell said that because of the equity issue, the Council may want to do a reimbursement district, and that provides that when they connect they will pay the cost of connection at that time. That requires someone to finance it. There the Sewer Fund could finance the cost of the system, but the people connecting would pay their fair share when they connect. The uncertainty there is when they connect, but that would address the equity issue.

He said that the second issue is the market value of the effluent. He said that is one of the aspects they will hear about on April 1. If the Council, through the rate process, wants to increase the cost of effluent they can, but they should keep in mind that the Sewer Fund and the Water Fund do not make money. The reason they have rates is because it takes more money to run than they get. He said that they can modify the cost of water or wastewater, but they will still have to pay for it because it is a service the City provides.

Mayor Wilson asked if the WIFA financing would be applicable to an improvement district or reimbursement district. Mr. McConnell replied that it would. Mayor Wilson said that would lead him to the conclusion that WIFA is the preferred financing alternative since it is the cheapest way to get the money. Mr. McConnell noted that whenever they borrow money they have to pay it back, so they want to see some assurance of a revenue stream.

Councilman Luzius said that he has heard that the sophisticated alternative septic systems are close to \$25,000; Mr. McConnell said that they are expensive. Councilman Luzius said that if they have 600 homes involved and they spend \$25,000 each, they are talking about \$15 million, as opposed to \$8 million. He said that they would have to come to some type of happy median.

Councilwoman Lopas asked what Prescott Valley did to address the issue. Mr. McConnell said that they had a mandatory connection and they borrowed the money from somewhere.

Councilwoman Lopas said that Prescott Creeks has been diligent about monitoring the water in the area, and when they have a rain storm and they go to Watson Lake, the ecoli count is past what the machine will register. It is just a

matter of time before the EPA comes in and says that the City has to clean it up. They have to fix it and fix it very soon. Mr. McConnell said that there are several components of that water quality equation, one is failing septics, another is an aged City sewer system that needs to be tightened up, and the third is things like horses because when it floods, all kinds of things end up in the lake.

Peter Busciano, 2260 Alta Vista Place, said that the issue of sewer in the North Prescott district has been going on for over ten years—meeting after meeting. They have spent \$2 million to date and they don't have sewers. The surveys have indicated that most of the homeowners in the district do not approve. The last survey showed that 56% did not approve because the City was mandating they pay full cost. He said that many of the people said that they didn't send in the survey because they were not in favor of it.

He said that Mayor Simmons had promised that the sewer project would not be stuffed down their throats and there were other promises that the City would contribute to the costs. He said that he has spent many hours in the City offices going through minutes trying to find out who made promises. He issued a four-page letter in June of 2006 that all of the Council received, and he recently dropped off more copies for the new members of the Council.

He said that promises were made verbally that the City would pay. Others say that they received a letter stating that the City would pay, but nothing has ever happened. He said that another issue was that payment to the City would set precedent because it has never been done before. He said that the City makes payments all the time, such as Wal-Mart, Lowe's, and the mall. He said that he also found information that states that if a proposed district is protested out, the City cannot award a contract.

Mr. Busciano said that there was concern of the City that if they paid in the North Prescott area, there would be others knocking at the door, wanting to be paid. With that, he asked for a plat of all of the unsewered lots in the City, which totaled 1,300. He did a sampling and found that 300 lots were undeveloped, meaning, about 1,000 lots were unsewered and have septic. That has changed, two years have passed, dozens of permits have been issued by the City. Across the street from his home there were three lots sold with three new septic systems.

He said that a sewer improvement district would not benefit the citizens as a whole. He said that for ten years he has been paying 75 cents for streets lights and he doesn't have street lights. He said that the effluent that is sold goes into the community fund. He said that for the City it is a win/win; for the homeowner it is a lose/lose.

He urges the Council to pay for the trunk lines and have the homeowners connect to the line. If the system fails and the line is within 200 feet, the County requires that they connect.

Councilwoman Suttles said that they are back to where they were three years ago. They cannot get the two groups together. They brought this on to make a success, but they are going to lose it somewhere along the way. They have groups that don't want to pay and there are groups that have to connect.

Mr. Busciano said that the other systems are going to fail and they will be required to connect. For the new projects, they can be charged the full amount and the developer pays for that. For an example, if the City puts in trunk lines and charges the homeowners \$15,000 each or gives them a credit of \$15,000 each, and anything over that amount the homeowner has to pay. The other districts that may want to jump in, they should get charged \$15,000 too. He said that he will hook up; the failed systems will hook up right away. The others will eventually fail.

Robert Herman of 38 Perkins Drive, said that he only represents himself; however he has talked with many of the 108 property owners in Antelope Hills. For the proposed sewer improvement district the current City policy, in order to form or not, requires 50% plus 1. He knows that no numbers exceed 51% due to the excess property owners' cost. If a property owner fails to vote, a yes vote is recorded and does not seem democratic to him. He said that the Antelope Hills proposed water district includes 108 property owners as a unit; it should not be divided or have certain areas omitted in order to jockey the numbers. Former City Councilman Blair, in a Courier article of April 5, 2006, said "the City should pay for the main sewer lines and the residents should be responsible for their individual lines and costs of hookup."

He said that the most current figures mentioned are now close to \$18,000 for the main line, plus owner hookups, filling septic tanks, and repairing property damage during the hookup. That is closer to \$20,000 to \$25,000, which would affect many older people who are on fixed incomes. If the main line leaks in the future, he asked if the property owners would have to pay to fix that.

He said that the City should pay for the main line, installation and the owners the rest. They have paid taxes for years, and still paying taxes. He asked if it was possible to apply for a Federal grant. He agrees that it would be beneficial to have all City sewers throughout Prescott, but not at such a huge cost. He said that it is not a political issue; it is a tremendous financial burden issue, and he hopes it does not become a civil rights issue.

Mayor Wilson said that he did not understand the reference to it being a civil rights issue. Mr. Herman said that it could be if people are forced to do something they are against, and vote against. If the current City policy requires the homeowners to vote, the Council could change that. Mayor Wilson said that the improvement district process is specified by State Statutes. Mr. Kidd said that the "no vote counts as a yes vote" is part of the statutory framework of improvements and has been there for a long time. To change it would require a

change in the State Statutes.

Sabrina Morganelli, 2125 Bonner Lane, off of Mullen Way, said that they do not have water and it was not included in Exhibit A. She asked where they fall in the plans. Mr. McConnell said that on February 26 he presented three pages of unsewered areas, and Mullen Way was in its own category, because the City does not provide water, so they would not provide sewer. He said that the only reason it was on the front page was to reference that in the past years there have been discussions about specific areas, Antelope Hills, Mullen Way, North Prescott, etc.

Mayor Wilson said that he could get her the previous workshop's handout. She asked how they would be advised, if and when they would come into the system for consideration. Mayor Wilson said that it would be on the agenda and in the newspaper. Currently, they are just focused on the four primary areas where they are serving water and having problems.

Mr. Busciano said that the previous Mayor had said that by having sewers the property values increase for all. He asked how they get their money. The City gets their money right away when the assessment goes up, but they don't get their money until they sell or refinance. He said that he called Prescott Valley and they sell between 2 and 3 million gallons of water to Stoneridge Golf Course. The City of Prescott sells water to Antelope Hills, Prescott Lakes, so they do get some money back.

John Reed, 12 Perkins Drive, said that he represents the Antelope Hills Homeowners Association. He said that he agrees with Mr. McConnell that it is too early to publicize the meetings more. They had two different presentations at Antelope Hills, by either a representative of the City or consultants. He said that in the earlier meeting the lady said that the property owners deserve something in return if they provide effluent to the City, and that *range their chimes*. Last year the consultant came around and interviewed different homeowners, and that is when some of the figures of costs came up, and some were pretty high. The problem with Antelope Hills is that there is group with septic tanks that work fine, and they would rather be left alone, and there is another group with septic tanks that are failing, and they need help. In the second workshop paperwork, it showed groups of property owners that needed help and those that did not, and he is hoping that Mr. McConnell or a member of his staff, perhaps in mid June, would go out and speak with the homeowners. They would like to have someone come out when they are far enough along to present to the property owners where they think it is going and what the costs may be.

Councilman Roecker said that he has been sitting on the Council for a long time and they are chasing their tails. The only real solution is to ask the existing ones whether they are willing to pony up to pay for the rest to be connected to the City's system..

Mayor Wilson said that he is sure that Mr. McConnell would go out and talk with them at the appropriate time.

Councilwoman Suttles asked if Councilman Roecker was suggesting that they take it to a vote. She asked what they do if the voters say no. Councilman Roecker said that ADEQ would come in and say they couldn't use their system; they would have to come up with an alternative system, but the burden of fixing it would be on that particular homeowner.

Councilwoman Suttles said that is putting them in a corner. Councilman Roecker said that it is a matter of who does what, when. He said that he remembers sitting at Taylor Hicks Elementary School the first time they met with the North Prescott Sewer Improvement District people and the number was around \$7,000 to hook up, and there was question or not of whether they would get the required 50% plus 1.

Councilman Bell said that 15 years ago he lived in Prescott Valley and went through this. The City ran the line down the street and every property owner paid to hook on. That was \$3,000; it was mandatory. It had to be done. They had financing available and he thinks they will have to bite the bullet and do the same in Prescott.

Mayor Wilson said that he thinks the charge that the Mayor and Council has is to decide the issue. They have to finance it one way or the other; WIFA is the way to go, and the rest is the other component. They have to make a decision, and be as inclusive as possible.

Mr. McConnell reviewed Exhibit IV, the proposed timetable. They have included in the capital project requests for the upcoming budget, which are also the basis of the Water and Wastewater Rates and Fees, for an unsewered areas project. The hopper is loaded with the pieces. It is about \$10 million with design. He said that they are trying to walk through the process very transparently and comprehensively; it is the Council's decision to form the policy and it is a matter of money.

Mayor Wilson said that he did talk with Steve Owens with ADEQ regarding grants, and they did not find any, but he did confirm the WIFA funding. He said that they have not looked at the Department of Agriculture, but he would be willing to look at any place where they could get a grant.

Bill Remp, 2680 Ridge Road, said that it seems that the public really does not have any input on this; they were not notified about it. He suggested that they stick it on the water bill, then they won't have an excuse. Staff replied that they would do that.

## 2. Adjournment.

There being no further discussion, the Workshop of March 25, 2008, adjourned at 2:38 p.m.

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JACK D. WILSON, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk