

PRESCOTT CITY COUNCIL  
STUDY SESSION  
PRESCOTT, ARIZONA  
MARCH 4, 2008

A STUDY SESSION OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, MARCH 4, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

**CALL TO ORDER**

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

**INTRODUCTIONS**

**INVOCATION:** Major Trimmer of the Salvation Army

Major Trimmer of the Salvation Army gave the invocation.

**PLEDGE OF ALLEGIANCE:** Councilman Lamerson

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

**ROLL CALL:**

**PRESENT:**

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

**ABSENT:**

None

**SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood reported that Chad McDowell, Field Operations Manager, will be applying for a \$20,000 grant from the Arizona Department of Environmental Quality that would help offset the costs of the Household Hazardous Waste Day.

Mr. Norwood then introduced Mark Nietupski, who, in turn, introduced the new City Engineer, Scott Tkach, who was replacing Dale Wachs who recently retired. He said that Mr. Tkach brings with him nine years of experience with the City of Avondale.

## I. PROCLAMATION

### A. March 2008 – *American Red Cross Month*

Councilman Luzius read the proclamation proclaiming March 2008 as *American Red Cross Month*, and invited all of the Red Cross volunteers with the Grand Canyon Chapter forward.

### B. March 2008 – *Red Light Running Awareness Month*

Mayor Wilson read the proclamation proclaiming March 2008 as *Red Light Running Awareness Month*.

## II. DISCUSSION ITEMS

### A. Acceptance of 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.

Mr. McDowell said that the department went out for bid and received four bids, with U.S. Transportation Services submitting the lowest responsive bid, and these are budgeted in this fiscal year.

### B. Approval of an engineering services agreement on behalf of the Central Yavapai Metropolitan Planning Organization (CYMPO) 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.

Deputy City Manager Craig McConnell said that this item is to approve an engineering services agreement for preparation of two planning-level corridor studies, one is the SR169 to Fain Road Connector and the other is the Chino Valley Extension, and these are both in the CYMPO Plan.

He said that the City does provide personnel, purchasing and accounting services for CYMPO. This is an agreement which is being routed through the City as the City is the purchasing entity. Jodi Rooney is present today for any questions. The scope of work for these consists of traffic analysis for purpose of identifying a half-mile wide corridor in which these future facilities could be located. These two are contemplated and identified by the CYMPO 2030 Regional Transportation Plan which was completed about two years ago.

Mr. McConnell said that at their meeting of February 20, 2008, the CYMPO Executive Board did approve by motion entering into this agreement with Civiltec/HDR and approved a request that the agreement be routed to the City for approval, pursuant to the MOU for purchasing services.

He said that the project itself will be managed by the Yavapai County Department of Public Works. They were also project manager on the CYMPO 2030 Plan. A timeline of about 12 months is anticipated. With respect to funding and budgeting, during the annual budget process CYMPO comes to the City and fills out a capital projects list like all City departments do. This is one project listed and it is also listed in the CYMPO annual reporting document.

He said that there is a project within the City of Prescott system for this work. The cost of the agreement, \$538,552.00, does exceed the amount budgeted; however, the City does have appropriation authority in the one-cent sales tax fund to award this contract.

There is a local match for this project; on projects of this type each of the CYMPO participating entities allocate for local matches. The local match is \$134,660.00 and of that Prescott's portion is \$49,824.00.

He said that some may question why the City would participate since these facilities are not within the City. CYMPO acts as a region; some projects will be located in Prescott, Prescott Valley, and the unincorporated County. They all participate as a region. At the next CYMPO TAC meeting the City will ask them to program two years of construction money for participation in the Side Road Interchange. Looking at this regionally, they understand they're in it for the long-haul.

Councilman Luzius said that he appreciates the explanation of the regional aspect. He said that looking at the schematic, it looks like the 169 to Fain Road would also service Dewey-Humboldt, and he asked why they are not a contributor. Mr. McConnell said that there have been various discussions with Dewey-Humboldt in the past, but they have not been ready. They just recently incorporated and do not have a lot of financial abilities. They are included in the planning; they are just not at the table yet.

Councilman Luzius said that if they are doing highways to improve their flow as well as the rest of the area, it would be proper for them to participate. He said that he will bring it to the Board.

Councilman Roecker asked if there is any legal requirement that Dewey-Humboldt participate financially. Mr. McConnell said that he did not believe so. In the past three to four years there was an interest in bringing them onto the Board. Councilman Roecker said that he was there when it was formed and he recalls that they wanted them to participate. He believes it would be appropriate to ask them again.

- C. Approval of 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).

Community Development Director Tom Guice said that this is a revision of plat for Lot 8 of Block 10 of the Fleury's Addition. It is located one block north of Planned Parenthood, at Willow and Western Avenue. He said that the various reviewing departments have reviewed this and approved it.

- D. Adoption of 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.

Engineering Services Director Mark Nietupski said that this is a request to abandon a portion of Lorraine Drive located north of Willow Creek Road and east of Crossings Drive. It was initiated by Mr. Ty Myers, the developer of the Crossings Business Park. A portion of Lorraine Drive was abandoned previously, to the north, and this would be consistent with that as well. The segment in the middle is being discussed by the adjacent property owners for the same purposes. Through the abandonment the City would retain public utility easements all along the length and the City would receive \$24,165.00.

- E. 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.

Assistant City Attorney Tom Lloyd said that this is an item for the adoption of a resolution to approve an assignment of a contract with regard to the Hassayampa Golf Club. There is an attachment to the agenda item that is the assignment and the original document is attached as well. The new

entity would take over the obligations, with regard to the effluent, of the old Hassaypma entity. Councilwoman Suttles asked why this was brought forward.

Jim Atkinson, attorney for the Golf Club at Hassayampa, Inc., the new entity, said they are comprised of over 170 golfing members, many of which are residents of the Hassayampa Golf Club. He said that for over a year they have been negotiating with Hassayampa Golf Club LLC (Troon), the developer of the club, to take over management and ownership of the club. As part of those negotiations, this has been a key element because without the effluent, the golf club does not exist.

He said that the purchase is now to the point where it is going to happen this week, with a contingency that the assignment is assigned. It is freely assignable as long as the entity acquiring it has the financial ability to operate and maintain it, and assumes that obligation in writing. The assignment document is what is needed to accomplish that, and there are assurances that have been provided to the City as well as copies of the financial data regarding the new entity and they are prepared to take over management and operation of the golf club this week, assuming the closing happens this week.

Mr. Atkinson said that the entire infrastructure was built back in 1997 and the new entity will take over their obligation to maintain and operate. As part of that, the amended agreement of 2000 required a sinking fund be established in the amount of \$250,000.00, but that has not been done to date. The new owners will, upon closing, contribute that \$250,000.00 account. There was also an accounting issue that they have helped resolve.

Councilwoman Suttles asked if everything stays the same with the new group taking over, and everyone has signed on to make the move. Mr. Atkinson said that there are some that do not agree with it, but they believe this new entity will be better able, as a local entity, to make sure it succeeds and the development continues to be a real asset of the community.

Councilman Luzius asked how this could be finalized if the Council would not be voting on the assignment for another week. Mr. Atkinson said that it is contingent upon the vote, but it would not happen without it.

Councilman Luzius asked the city manager if a cost for the effluent had been established. Mr. Norwood said that it does not change the contractual obligation that the City has with Hassayampa. Mr. Atkinson said that it changes nothing in the agreement; it is a clear assignment and assumption. Councilman Luzius asked what that rate was. Mr. Woodfill

said that believed it was a flat rate of \$25,000. He said that Hassayampa pulls the effluent off and pays for the treatment, so it not a per gallon item.

Councilman Luzius said that what he was getting at was that Prescott Valley has already determined the price of an acre foot of effluent credits as being somewhere around \$25,000 and he was wondering how much effluent the City is providing to the golf course for \$25,000 a year.

Ms. Tucker said that they average between 250 and 300 ac. ft. a year. One thing to keep in mind is that Prescott Valley's acre foot of effluent is a 100-year supply; this is a one-year supply.

Councilman Bell asked Mr. Woodfill if he was comfortable with the financial commitment of the LLC. Mr. Woodfill said that it complies with the existing agreement.

Councilman Bell asked who the principals of the LLC are. Mr. Atkinson said that it is an Arizona non-profit corporation. The principals are the members, comprised of approximately 170 members. He said that Ed Patterman is the President.

Mayor Wilson said that he discussed this with the City Attorney regarding this and he believes it is a win/win with the situation of Troon never being able to fund their sinking fund.

Jim Musgrove, office at 1135 Iron Springs Road, asked if the effluent agreement being assigned was the one of 1995 and amended in 2005. Mr. Lloyd said that he was not involved, so he could not say. Ms. Tucker said that it looks as if it is the amended agreement of 2000.

Mr. Musgrove said that he represents Steven Shenefiel and Amy Hurst, who own Lot 21 Conifer Ridge in the Hassayampa community. There is a problem of long standing of which the City, all of the Troon entities, the Golf Club and the new golf club acquisition committee have been aware of for over two years. Yesterday he drafted and mailed it to eight addresses, one of which was Mayor Wilson, with a copy to Gary Kidd, in the form of a demand that certain problems existing with the sewer line be addressed, or the addressees are going to suffer the consequences.

Mr. Musgrove said that as of his phone calls this morning to the Mayor's office and Mr. Kidd's office, the letter had not yet been received so a copy was faxed to each. Mayor Wilson indicated that he had a copy.

He said that he listened to Mr. Atkinson's delivery and the questions from Councilwoman Suttles and Councilman Bell. Taking off his attorney's hat and putting on the taxpayer's hat, he has some questions and concerns

regarding the economic consequences to the citizens and taxpayers of the City of Prescott. They have gone some 15 years without the \$250,000 sinking fund, and he was surprised at the discussion that they don't have a financial statement as to when, and the capability of, the \$250,000 being put up.

Speaking on behalf of his clients, they are aware that this problem doesn't exist only on his client's property, but also on other properties. Their problem is that they have been told by all the entities that there is a forced sewer main under pressure and various types of electric power lines that have been installed across his client's property in a non-easement area.

Mr. Musgrove said that it should not come as a surprise to anyone in the room, especially those in the engineering department because they have been aware of this. He is bringing to this Council's attention that this is something to think about. The City has some responsibility because under the 1995 and 2000 effluent agreement, and various plats on file, they have the ownership of the sewer lines. His clients have been told for two years that nothing is going to be done.

Mayor Wilson asked who told them that. Mr. Musgrove said that Troon and the City of Prescott both told them that. He said that he was bringing this to the attention of the Council because this is a Study Session, for them to study the issue. The Council needs to look at this further before going forward, and he was surprised that the Mayor had not said anything about receiving his letter.

Mayor Wilson asked Mr. Lloyd to comment on what had just been said. Mr. Lloyd said that he did not think the existence of lines, if there is an encroachment, affects the assignment; the new entity will inherit the problem. The City is still the beneficiary, and nothing changes. He said that the new parties need to solve the problem.

Councilwoman Suttles asked that this item be pulled from the Consent Agenda to have a week to look at it further.

Councilman Lamerson asked why the \$250,000.00 account was never required to be developed, as lined out in the original agreement. He said that he was not aware that the sewer had been causing problems in that area and he agreed to not have this item on the Consent Agenda. He said that they did not have adequate information.

Councilman Luzius said that he agreed to pull it from the Consent Agenda.

Councilwoman Suttles asked if they will have more information when it is pulled. Mr. Norwood said that Mr. McConnell has some more information now, but they will wait and get fully prepared for next week's meeting.

F. Update on Interim Arsenic Treatment Project.

Utilities Director Jim Ciaffoni said that with respect to the last item, he recently became aware of the problem with the force main, but he does not have all of the facts on it. Councilman Roecker said that he does not believe they should be discussing this any further as they have moved on to the next agenda item and the principals have let the meeting. Mayor Wilson agreed and asked Mr. Ciaffoni to continue with his update, and bring back his other information to next week's meeting.

Mr. Ciaffoni said that he is pleased to report on the City's ongoing efforts to install interim arsenic treatment at six of the City's well sites in the Town of Chino Valley. He said the Conditional Use Permit process for Well Sites 3 and 6 have been delayed for a couple of months now over disputed litigation, and the Conditional Use Permit application for Well Site 1 and 2 was rejected early by Chino Valley in September 2007 under the premise that the Big Chino Water Ranch project would go ahead, and it would have been preferable on Chino Valley's part to consider the accumulative visual impact of both of those projects at the same time. It was not recognized until recently that the timing of that project is uncertain and the processing of Well Site 1 and 2 should not be delayed as a result of that. Thanks to recent efforts of the mayors and councils of Prescott and Chino Valley, as well as department heads, those obstacles have been overcome and they are moving ahead on this.

Mr. Ciaffoni said that he spoke with Layne Christensen, the city's interim arsenic equipment manufacturer, and they are telling him that they expect to submit the building permit for Well 6 on March 17, which should allow them to begin installation of equipment by May 1. In the Council memo he had listed that date as April 1, but after conversations with them they have had to remobilize some of their people and organize their schedule and resources as a result of this delay. They will begin on May 1 and have the last site installed by October 30.

He said that the City is also working on processing a request for an exemption from ADEQ and EPA so that the compliance deadline for the entire effort would be postponed until January 23 of 2009. In trade for that, the City as to develop a work plan, and he expects that to go forward with no problems.

Councilwoman Suttles asked if this was to be completed in January of 2007. Mr. Ciaffoni replied that it was. Councilwoman Suttles asked if they

were that far behind because of dealing with Chino Valley and trying to get the Conditional Use Permit. Mr. Ciaffoni said that was correct.

Councilwoman Suttles asked if Layne Christensen was asking to be paid for interest because they were waiting for the City, and she asked how much they were talking. Mr. Ciaffoni said that in initial discussions with Layne Christensen, they fabricate all of the equipment on site at their yard in California, so all the pieces have been procured and assembled. The capital investment was around \$1.5 million, and they have had some preliminary discussions on what the rate of interest should be and 8.5% was discussed. Since that discussion, Layne Christensen has been able to take some of that equipment and move it to another project, which does not delay the City's project, and that will be a savings. They are looking at something around \$8,000 to \$10,000 a month.

Councilwoman Suttles said that the City has to pay the contractor because of the continual delays with Chino Valley trying to get this going. Mr. Ciaffoni said that the interest charges would only continue until they actually start installing the equipment and get back on their normal schedule. They have not come to terms yet on what the beginning date should be. Under the terms of the original contract, their first payment would have been due around the end of February, and it would be logical to have that as a beginning point, so they would be looking at two or three months' worth of interest. Mayor Wilson said that he would recommend they consider around \$33,000 because he had heard the number \$11,000/month.

Councilwoman Suttles asked if the money comes from the arsenic budgeted amount. Mr. Ciaffoni said that it would come from the operations budget under wastewater. Councilwoman Suttles said that it gnaws at her. Mayor Wilson said that the original number was higher and he had a conversation with Gary Kidd about this, and through some intervention on the part of the City they were able to reduce the number. He said that he understands why it gnaws at her, because he does not like the position they were put in either, but he wanted to get it off dead center, and there were not a lot of alternatives.

Councilwoman Suttles said that they knew it was coming. The Council has been appraised of the delays, but she questioned where "regional cooperation" was with the City having to pay additional interest because they could not get a Conditional Use Permit to do what they were told to do by the Feds.

Mr. McConnell said that the City entered into a contract with Layne Christensen and that payment consists of two components, one is an equipment lease, and the other is the cost of actually treating the water. If

the City and Layne Christensen treated no water, there would still be the cost of equipment lease. Mr. McConnell clarified that the deadline was January of 2008, not 2007. Layne Christen has a contract with the City of Prescott and Layne Christensen expended capital to fabricate the equipment with the expectation that they would be able to start billing the City effective January 1, 2008 at \$50,000 per month, or whatever the equipment rental amount was. They were unable to do that because of the permitting issues, so instead of the City incurring the \$50,000 lease for the equipment, they have been unable to install that equipment, and all they are asking for is the interest on that capital which is much less than the \$50,000 a month. It is an additional expense because the City is not getting the benefit of that equipment; on the other hand, it is not the full \$50,000 which they would have had to pay for the equipment lease.

Councilwoman Suttles said that she appreciates the negotiation with them in getting them where they are now.

Councilman Lamerson said that he understands they have to do this; he is not aggravated at Layne Christensen, nor at Mr. Ciaffoni, but the issue of "regional cooperation" is horse manure when a City like Prescott cannot be in compliance with Federal regulations because they have another organization holding them hostage. He said that "regional cooperation" is not in his vocabulary at this point.

Councilman Bell said that he assumed that they will be billing the Town of Chino Valley for the interest expense. Mr. Norwood said that they can bill them. Councilman Bell said that then they could follow it up with collection procedures. They have caused this expense and it is only right.

Councilman Luzius asked if there is any recourse. Mr. Lloyd said that he did not know what the basis was for the resolution of the problem between City of Prescott and Chino Valley and what the basis was for reaching an agreement. With a resolution of this matter, he can pretty much guarantee that that resolution has not taken as long as it would have to litigate the matter of obtaining the permits.

Councilman Luzius said that he appreciated that fact, but the fact is that Chino Valley still caused us undue financial harm.

Mayor Wilson said that it is a situation of whether they move forward or move backward. He appreciates the situation where Chino Valley has caused the City some problems, but they have a negotiated settlement by discussions to avoid litigation, and now they are going to put the treatment in place. They can get stuck there or look to the future and see how they can try to improve the relationship.

- G. Approval of the Minutes of the Prescott City Council Regular Voting Meeting of February 26, 2008, the Workshop of March 4, 2008, and the Study Session of March 4, 2008.
- H. Selection of Items to be placed on the Regular Voting Meeting Agenda of March 11, 2008.

Councilwoman Suttles said that everything would be on the Consent Agenda, other than Item E (Items A, B, C, D and G); F was a report.

### **III. ADJOURNMENT**

There being no further business to come before the Council, the Prescott City Council Study Session of March 4, 2008 adjourned at 4:02 p.m.

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JACK D. WILSON, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk