

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

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, AUGUST 12, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor John Garwood, Cornerstone Church

No invocation was given as Pastor Garwood was not present.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Lamerson

Councilman Lamerson 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**

City Manager Norwood said that their prior 1:00 p.m. joint workshop with Prescott Valley was very good and provided a lot of good information. He said that the best part was the very encouraging word from the Arizona Department of Water Resources as the application has been under review for the past ten months, and the last few responses will be submitted this week, so they are hopeful for a letter within the next few weeks.

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

A. Eric Bewley re Prescott Badgers.

Eric Bewley of the Prescott Badger Booster Club addressed the Council regarding this year's football season and presented the Council and staff with gifts.

B. Nancy Healey re situation at Lincoln/Grove corner.

Ms. Healey said that she had recently received a ticket at Grove & Lincoln for picking up a day laborer. She is not current or up to speed on what has been happening, but she has used the day laborers in the past and although she did see the signs at that location, she found them confusing. She asked what process could be used for her to utilize the day laborers without obtaining a ticket, and suggested that the signs be made larger. Mr. Kidd explained that the signs conform to the Uniform Manual that is used statewide, and those same signs are located throughout town. He said that they could not deviate from those standards.

Mayor Wilson said that they are allowed by law to stand in the public right of way; the enforcement of the signs is uniform across the City. He said that they don't address it very easily because they have had contentious arguments go on and there is no easy solution. He said that the situation originates from the Federal government and the immigration policy; the problem in Prescott is that the City has very little control.

II. PRESENTATIONS

A. Presentation by APS re donation to the Elks Opera House Foundation.

Elisabeth Ruffner, Chairman of the Capital Campaign for the Elks Opera House Foundation, and John Olsen introduced Mike Johnsen and Burt Sommers from Arizona Public Service. Mr. Olsen said that APS is very generous in how they view the community and are always making donations.

Mike Johnsen said that the APS Foundation is proud to be able to present a contribution to the effort around the restoration of the Elks Opera House. They have worked for many months to get to the point to make a \$36,000 to the Elks Opera House Foundation. He said that APS is a community partner and they value the opportunity to do the kinds of things they do within the community. Mr. Sommers echoed what Mr. Johnsen said, adding that the community's success helps ensure APS's success and he thanked the City for what they are doing.

Mr. Olsen explained that the money will go for one of the boxes they hope to restore, and is the second donation for that purpose.

Mayor Wilson thanked Arizona Public Service and added that the Elks Opera House is near and dear to his heart.

B. Update from the Prescott Bicycle Advisory Committee.

Jim Knaup, Co-Chairman of Prescott Bicycle Advisory Committee, said he was there with his Co-Chairman, Karen Warrick, to present copies of the third edition of the City of Prescott's Bicycling Opportunities Map. He said that 15,000 copies of the new map were printed, and once they are distributed there will be close to 40,000 of all three editions in circulation. He thanked Catherine Moody of the City's GIS department and said a great deal of input came from Chris Hoskins, the Parks and Rec's Trails Specialist, as well as review by Ian Mattingly. Eric Smith has been spread too thin to actively participate in the committee lately, but his help was invaluable in getting the first edition off the ground. On the community side, he thanked Rob Halen, Charlene Craig and Lisa Barnes.

Chairman Knaup said that they usually meet the first Monday of each month at 10 AM in the downstairs conference room in City Hall, although next month with the holiday, it will be on the second Monday. He invited the public to attend.

Chairman Warrick then reported on the upcoming fundraising ride, and would like to see their number of \$9,300 from last year doubled. Along with the ride, they have two teams participating, one from the Prescott Police Department and one from the Prescott Valley Police Department, challenging each other to see who can complete the 50-mile route with the best time.

Mayor Wilson said that it is a fantastic map and asked that the committee make sure that they were available at City Hall and the chambers. Councilwoman Lopas said that she was proud to see a group of citizens putting together something like that; she was very impressed and applauded them for the good job.

Councilman Roecker asked how close this got to the Circle Trail. Mr. Knaup said that they still have quite a bit of work to do, mostly across State Land, and getting the easements is going to be a problem and may cost some money.

III. REGULAR AGENDA

- A. Public Hearing and consideration of liquor license application from Heng Lin, applicant for Teng and Lin, LLC, for a Series 12, Restaurant license for Chi's Cuisine located at 114 North Cortez Street.

City Clerk Elizabeth Burke reviewed the liquor license application, noting that the property had been posted as required by State Law, no public comments had been received and the applicant had been requested to attend today's meeting, although she was not sure they were present.

It was noted that the application was not present. There being no public input, **COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.**

COUNCILMAN ROECKER MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION FROM HENG LIN, APPLICANT FOR TENG AND LIN, LLC, FOR A SERIES 12, RESTAURANT LICENSE FOR CHI'S CUISINE LOCATED AT 114 NORTH CORTEZ STREET; SECONDED BY COUNCILMAN BELL; PASSED 5-2 WITH COUNCILWOMAN SUTTLES AND COUNCILMAN LUZIUS CASTING THE DISSENTING VOTES.

- B. Adoption of Resolution No. 3900-0902 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with Yavapai County for Unified Emergency Management, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Emergency Services Director Darrell Willis explained that this is an agreement that they have had for several years between the City and the County for emergency services management. He noted that it is based on the census, so the numbers have not gone up for the past five years.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 3900-0902; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- C. Discussion/consideration re Downer Trail Gate south of Sierry Peaks Drive.

Public Works Director Mark Nietupski said that staff has informed the Council that the traffic control issues on public streets are policy issues,

whether it is full access, restricted access, one-way traffic, etc. With completion of the subdivision to the north of the gate the East/West Connector provided two ingress/egresses for that area. He said that in past meetings the BRW traffic study of 1998 has been called into question, and he would note that the study is ten years old and things have changed.

He explained that traffic engineers use standardized methods based on assumptions that are necessary. He can say that if the gate is open traffic will increase and continue to do so until full build out is achieved. With any study, they are typically based on volumes expressed not as absolute. If the inputs were changed in the study, it would possibly reduce in a less volume, but they do not believe that is an issue. There would still be an increase on Downer and Oregon. Staff did a real study and movements used to make projections for the movements that might be anticipated, and those vehicles were projected at 200-250 vehicles a day.

Mr. Nietupski said that Downer Trail south of Sierry Pieaks is narrow, steep and windy and neither it nor Oregon has pedestrian facilities. Neither would be desirable. He said that during design of the Downer Trail project it was staff's understanding that the gate was to be installed for emergency ingress/egress to prevent cut-through neighborhood traffic. It was anticipated that the gate would function in that capacity for an undetermined period. It was installed at a cost of \$2,100. He added that Ian Mattingly is present if they have specific questions regarding traffic analysis.

Councilwoman Suttles said that a question had been raised as to why the gate would be put in and then brought before Council; why they didn't keep the cable. Mr. Nietupsaki said that the gate was installed as designed and the roadway was configured as installed to provide emphasis for use of the East/West Connector. A formidable gate was required to prevent its abuse. The roadway was configured with the ramp-type feature that provides that emphasis.

Councilwoman Suttles also asked about the ability of a walkway around the gate so that someone walking their dog or riding their bike could get around. Mr. Nietupski said that there are no pedestrian facilities south of the gate; if they chose to walk around the gate they could, but they would have to walk on the shoulder or roadway pavement.

Councilwoman Suttles asked if it would be possible to provide some type of pedestrian facilities. Mr. Nietupski said that they have not looked at providing pedestrian facilities through to Oregon neighborhood at this point, which was the objective of the Westside Neighborhood Specific Area Plan, but it could be accomplished.

Councilman Lamerson asked if it was correct that staff did not think that any significant increase on the road would be safe and that the road was not designed for it. Mr. Nietupski said that was correct. Councilman Lamerson asked if there were any future plans to improve the road. Mr. Nietupski said that Oregon Avenue was identified in one of the programs for the 1% fund, but it has not been programmed at this point in time. If they go forward with that project it would require additional funding, with considerable neighborhood input regarding the street section. He said that many of the homes are sitting close to the right of way, with no setback, so any improvements will impact how they use their property. He said that something could be done, but it would take awhile to work through that process.

Mayor Wilson said that he met yesterday with Mr. Nietupski and Mr. Mattingly regarding several issues, one of which was a possible updated traffic model. The conclusion of the meeting was that it would be \$10,000 to \$15,000 to update the traffic model, and not necessarily produce the results they want. They could also do an estimate, but that would still not be enough to be able to draw a conclusion. The other point was a letter he received from a woman saying that if they didn't remove the gate that they would be faced with a class-action lawsuit, so he consulted with the City Attorney. The City Attorney said that this issue falls within the police powers of the City, and based on case law, if they were to keep it closed, they should include a provision that it is not final; that it could be open pending reconstruction and the streets are up to standard.

Mr. Kidd said that it is a police power of the Council as to when to open a street; they have the discretion on when and how to do that. They have the power to regulate and prohibit the use.

Councilman Luzius asked what would be the difference of them having a gate closed or there being a dead-end road. Mr. Kidd said that case law demonstrates that if there is a street that has been open for a number of years and is then closed, they cannot do that. However, if the street has not been open in the form it is in, they have a great deal of discretion on when to open it.

Councilman Roecker said that one of the responsibilities they have as Council members is for the safety of the citizens. He said that there are different ways of looking at it. They can figure out an engineering fix, which would require a complete restructure of Downer Trail and Oregon, making them 28' wide to make it safe, or try to do it administratively. He said that the gate represents an administrative decision. He does not see in the future that Oregon should be widened. That neighborhood is going to

be the same for as long as he is around, and safety of the citizens trumps the convenience of some.

Councilwoman Lopas said that it was mentioned in the past that by having the City pave that road but not open it created a private enclave. She said that it is the City's policy to pave all of the dirt roads in the City. There are streets and alleys that do dead-end and she wanted to make it clear that this would not be an enclave.

Councilman Bell asked how many years the gate has been there. Mr. Nietupski replied that the gate was initially installed in the 1990's as a few bollards and chain, and it existed that way for the last 15 years. When the improvements to Downer Trail were made, the gate was put in. Councilman Bell said that he agrees with Councilman Roecker that the gate should remain closed at this time.

Lucy McMillan, 2150 Meander, said that she is a registered civil engineer and has defended many models in her career. First, she said that she runs on the street and she never has any problem with traffic. She has reviewed the study and wanted to make some comments regarding it. She said that she believes that the number of 250 referred to is high by a factor of 5 because there is nothing down there any more. When the model was done there was a Fry's store and two shopping centers, so the model split the 515. It actually had a larger number of 2,000 at the end of full build-out. So, Mr. Mattingly is saying that it is going to split, basing that on a study done at the end of Westridge recently, they saw that 70% of the people turned south. They turn south to turn on Fair Street to cut over to Grove; there is no reason to go into the City, so that is a faulty argument.

She said that the other thing is that the model showed that Gail Gardner heading south, in 2014, with the gate closed would have 745. At the time the model was done, the current number was 510 but now has somewhere around 350. It is probably going to go up to less than what it was in 1994. The City did all of the improvements and they had better have done those improvements to the 745 number because that is what the estimate is with it closed.

She said that she had an e-mail from Mr. Mattingly that states that the road can handle the traffic, so the road should handle 745 safely because if they spent money on it and it cannot handle what it should have handled, then the City misspent money.

Jeri Smith Fornara, lives at the top of Park Avenue, said that she watched the study session last week. She was on the Planning and Zoning Commission through the development period of that area. She said that

there were a lot of problems between Mr. Myers and Mr. Hicks and every time something was brought in things were changed. She said that the road should never have been blocked off for any reason, and everyone on the Commission was against it. She said that they had to have been there at that time because the development went on and on for years. She said that she has been in Prescott for 67 years and she can tell them that the streets people travel on are not Downer Trail and Oregon.

Arthur Anderson, 629 Downer Trail, said that he lives 50 yards south of the gate. If the gate stays closed he is forced every day to drive all the way down Downer and Oregon. To him, it doesn't make any sense. When they built his house they had in the plan the fully constructed road south with a 1999 neighborhood plan.

He said that if they look at the level of use on Gail Gardner at the exit from North Downer Trail they will find that the level of use is higher and worse on Gail Gardner than it is on Oregon, and that will be the case even after Mr. Nietupski's additions, which he does not understand. He said that the Gail Gardner intersection is a very complex intersection with schools, medical facilities, with things coming in at different angles.

Mr. Anderson said that the arguments have been made regarding safety. He said that not a thing has been done over the last ten years to improve the safety on Oregon Trail. He has given that speech to a number of the Council members and not a thing has been done. It is his belief that they could improve the safety in the Downer/Oregon neighborhood by simple traffic control procedures. He said that the traffic entering onto Oregon from the West comes at high speed. They didn't consider a stop sign there. He said that there was a complaint about safety on Oregon and they have a 25 mph speed limit and they didn't consider doing anything about that. He said that they have had people walking on the roadway for 10 years and they haven't even considered removing vegetation along the roadway which he could do in a week with his small tractor.

They could improve the safety of Oregon tremendously with a few simple things by adding stop signs, speed limit signs and removing vegetation which sits in front of and across from the Supervisor's house on that street. He said that they had a good road when they moved in and two good roads shortly after and before they completed their house, and now the City put in an inadequate road and plans to put in a gate so they cannot access 50 yards away, a road that is safer for them and more expeditious for them.

Mr. Mattingly said that stop signs are not to be used for speed controls; they are to be used to assign right of way. The nationwide standard would be to not install a stop sign and he doesn't believe there are warrants met

for a stop sign. The 25 mph speed is the prima facie for residential areas and if they post less than that it is unenforceable under Arizona state law. He said that they could post a “recommended speed” which is a black on yellow, but 25 mph would still be the legal speed. He said that the vegetation issue was new to him but he believes he knows the area he is talking about, where there are also outcroppings of rocks. He said that they could clean up the vegetation, but he believes it is beyond that, but he was sure Public Works could look at those things.

Cindy Swope, Oregon Avenue, said that she concurs with Mr. Anderson; she believes that the 25 mph limit is too high. She said that they as Americans can be proud they live under the rule of law as it helps them with applying it with impartiality. She was at the meeting to encourage the Mayor and Council to uphold the standards of safety, regardless. She sympathizes with those on the other side of the gate, but she is more concerned with actual safety and liability. She said that she remembers before Willow Creek was widened there was a young man riding his bike that had a terrible bike accident. His family sued the City for not having a safe roadway. She said that the City has to take steps to restrict and modify access to public roads is not without precedent. She mentioned Whetstine by the boulders, and also San Carlos, West Gurley, etc. They need to continue and uphold their safety standards so they are in place.

Sandra Parker said that she does not live the affected area, but she has many friends who do and she spends a lot of nights strolling in the area. She said that they advertise Prescott as America’s Hometown, and this is a perfect example. She said that she was at the meeting last week and one of the things brought up was that Prescottians love their shortcuts. She said that what was not mentioned was the fact that the Forest Trails end of the gate would also be impacted by increased traffic.

John Finn, 1333 Clear Creek, said that he was the developer of The Ridge, Enchanted Canyon and the Heritage III. When they developed Enchanted Canyon (72 lots) and Heritage III (18 lots), they did everything possible (he and Mr. Devereaux) to take and improve the area they are talking about. They wanted to go through Oregon and that area because it was the easiest route for them. They were willing to put up the money and make the improvements, and they were completely fought by that community stating they did not want those improvements, they didn’t want traffic through there, so because of that they did the East/West Connector. It was a condition of the Council, and a further condition of the Council was that when they completed the East/West Connector the gate would come down and it is still up. It has now been improved.

He said that the he does not know what the thinking is, and he questions why the City put in a substandard street at taxpayer expense, and now

they can't take the gate down because the street is not safe. He feels it is a violation of the agreement between his company, Mr. Devereaux's company, and their developments because that was a condition that it be removed.

Fred Veil, 1331 Sierry Peaks Drive, in the Heritage said that he had a couple of questions. He said that it was represented earlier that the gate or some aspects has been there for some time and that is not his recollection. There was a cable across Sierry Peaks which precluded traffic on Downer Trail, but Downer Trail did not have a gate on it.

Mr. Nietupski said that the gate was formerly located on Sierry Peaks to the west of Downer Trail. With the six-party agreement approved it was designated to be relocated across Downer Trail south of Sierry Peaks, with the completion of the East/West Connector. Originally it was relocated with cable, and then with a gate.

Mr. Veil said that it was premised that there has been continuously across Downer Trail which is not true, so Mr. Kidd may want to reconsider his opinion from earlier. Mr. Kidd said that if they changed from one location to another, the issue is still a policy decision.

Mr. Veil said that Mr. Kidd represented that it is discretionary. Mr. Kidd said that he would agree that it is discretionary, but it cannot be arbitrary. Mr. Veil suggested then that he look across the other side of Gail Gardner Road at Schemmer Road, which is similar to the road being discussed, but it does have a couple of speed bumps. He suggests that it is arbitrary to consider one road that is windy, curvy, hilly through a residential area as unsafe and subject to restrictions, when they have another similar road that is considered safe.

Councilman Lamerson asked Mr. Nietupski and Mr. Kidd if they had an agreement with the developer in Heritage III that when the East/West Connector was completed the gate would come down. Mr. Kidd said that he and Mr. Nietupski have both looked at the agreement and the minutes and that is not specifically in there. He said that the ordinance they looked at was from 1991 and historically that ordinance says that at some point in time the Council may, in its discretion, decide to remove it.

Mr. Nietupski said that the six-party agreement, approved through Resolution 3746, rescinded the previous development agreements which existed at that time. In it, it says that "Heritage will reinstall the light gate currently located at the east end of Sierry Peaks Drive, at Downer Trail, immediately south of its intersection with Sierry Peaks Drive Extension, and any upgrades, additions or modifications to the existing utilities

located within the gap or to the light gate shall be at the sole expense of the City.” It has no reference requiring its removal.

Councilman Luzius asked Mr. Nietupski to explain what the gap was. Mr. Nietupski said that in the prior agreements that existed there were various obligations by a multitude of parties with respect to the construction of improvements associated with Downer Trail, between Oregon Avenue and Sierry Peaks, between Sierry Peaks and Downer Trail and the Heritage Subdivision, between Downer Trail at Sierry Peaks and north to the southern boundary of the Downer 16 Subdivision, and from that point further north through the Preserve Subdivision, via Westridge over to Gail Gardner. Ultimately, the confusion that resulted through the development of those agreements was clarified in the six-party agreement.

Mr. Finn asked Mr. Nietupski if he was referring to the agreement signed by himself and Tom Devereaux. Mr. Nietupski said that it was. Mr. Finn said that he was talking about Enchanted Canyon, not Heritage, as his understanding at that time, was the gate was to come down at the completion of the East/West Connector, where they had to put up about \$1/2 million. Mr. Nietupski said that this was the six-party agreement that superseded the five development agreements that existed prior to that time.

Mr. Kidd said that they went back through the minutes to see what Council action had occurred specific to the item. The thing they go back to is a discretionary ordinance passed in 1991. They reviewed the six-party agreement which supersedes everything else. Mr. Finn asked why they keep referring to the ordinance when it is superseded. Mr. Kidd said that ordinances are separate from the agreement

Mayor Wilson explained that development agreements are signed between developers and the City, of which the six-party agreement is the newest. Separate from that is the ordinance that the Council adopted, so they are comparing apples with oranges. Mr. Finn said that he would concede to that, but they were directed to go that direction because Oregon and that area didn't want any improvements. Now, they don't want improvements, nor do they want the traffic. They put those improvements in at that time, and it would have been cheaper and quicker to go the other route. It does not make sense to him.

Pam Wickstrom, 700 Downer Trail, which is north of the gate said she lives in the area called “the gap.” She said that when the gate was put up they had a lot of meetings and she understood the gate was temporary; it would come down until the construction on Iron Springs was done. As soon as the Iron Springs development was opened up, the traffic was to

go down through Sierry Peaks and around Downer Trail, down Westridge. She is very aware of that because at the time they created the nightmare driveway which she has referred to previously.

She said that she has years of experience driving onto Oregon off of Downer to Gail Gardner. Now she has to go the reverse direction. It doesn't make a difference in time; the traffic is heavy on Gail Gardner. Both of the entrances need to have a traffic light; it is very unsafe, even from the Westridge direction. She said that she has watched to see what has happened with traffic on her road and it has not been a huge increase.

She said that one of the problems is that the Council meetings are during the day and many are unable to be at the meeting.

Mayor Wilson said that they have gotten comments from both sides for three meetings, unless there is something new to say, he asked that the move on. Ms. Wickstrom noted that she was the only one at the meeting that lives on Downer Trail.

Carol Russell, 555 Downer Trail, said that she is in favor of keeping the gate closed. She said that she had copies of the minutes of the 10/14/2005 meeting of the Prescott Preservation Commission where they recommended support of eliminating Oregon and Down Trail from the proposed connector and installing a crash gate for emergency purposes. She presented copies of the minutes to the City Clerk.

COUNCILMAN ROECKER MOVED THAT THE GATE KNOWN AS DOWNER TRAIL, SOUTH OF SIERRY PEAKS, REMAIN CLOSED; SECONDED BY COUNCILMAN BELL.

Mayor Wilson said that he would like them to amend their motion to include "pending reconstruction, engineering, funds, etc. to bring it up to City standards" as recommended by legal counsel. Councilman Roecker said that he does not see that happening in the next decade, but agreed to **AMEND HIS MOTION TO INCLUDE "PENDING RECONSTRUCTION, ENGINEERING, FUNDS, ETC. TO BRING IT UP TO CITY STANDARDS; COUNCILMAN BELL AMENDED HIS SECOND; PASSED UNANIMOUSLY.**

- D. Approval of letter from City of Prescott to Arizona's Congressional Delegation in support of federal funding of scientific studies as proposed by the Verde River Basin Partnership.

Mr. Holt said that Title II of Public Law 109-110, the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005 (S. 161), authorizes the United States Geological Survey to assist in a collaborative

and science-based water resource planning and management partnership for the Verde River Basin.

Section 204 of Title II calls for the Partnership to prepare a plan for conducting water resource studies in the Verde River Basin. A draft plan has been developed to serve as a guide for these studies, describing water resource planning and management investigations needed to identify long-term water-supply options within the Verde River Basin.

The Yavapai County Water Advisory Committee and the Upper Verde River Watershed Protection Coalition authorized preparation of letters supporting the request for federal funding, and encouraged member jurisdictions to initiate similar correspondence.

Councilwoman Suttles asked if the Tribe or Prescott Valley had sent such a letter. Mr. Holt replied that they have not and he is unaware of any municipality for Indian nation that has.

Councilman Roecker said that he does not think they need to send the letter; it is not saying anything they haven't already agreed to. He is concerned with making a unilateral move without their partners in Prescott Valley and Chino Valley, and it might imply that they are doing something greater than approving the aspect of looking at the Partnership to receive funding from the Feds. He said that there is a process in place now with the "group of six." That group has met twice and they left the second meeting with the understanding that the next move regarding cooperation between entities would be that the Partnership would decide whether they want to become a member of the WAC or remain autonomous. He said that he also understood that they have not completely reviewed the science plan, and asked Mr. Holt if he had reviewed the plan. Mr. Holt said that he did not have any recommendation regarding the science plan.

Councilwoman Lopas said that since they are in a partnership with Prescott Valley on the pipeline she would not be opposed to such a letter being sent as long as Prescott Valley was included. Councilman Lamerson concurred with that statement, especially after today's meeting. He does not want to derail anything.

Mayor Wilson asked the members if they would be in favor of sending the letter if they got joint signatures from Prescott Valley. Councilman Roecker said that he wouldn't see any reason to do that because they have already registered and identified their support. He believes that status quo is good.

Mayor Wilson said that he was in favor of going forward with the letter for a number of reasons. It is going to be hard to get the money; the money will benefit the entire region; they have two Congressional representatives

supporting allocations. He would support the position of approaching Prescott Valley through their Mayor and asking for their co-signature on the letter.

Councilman Roecker said that if they are going to that to Prescott Valley, then he asked about Chino Valley, the Tribe and Dewey-Humboldt. Mayor Wilson said that Prescott has one partner at this time in Prescott Valley.

MAYOR WILSON MOVED TO GO FORWARD WITH THE LETTER WITH THE PROVISIO TO GET CONCURRENCE FROM PRESCOTT VALLEY AND A DUAL SIGNATURE OF HIMSELF AND MAYOR HARVEY SKOOG WHEN AUTHORIZED; SECONDED BY COUNCILMAN LUZIUS; PASSED 4-3 WITH COUNCILWOMAN SUTTLES AND COUNCILMEN ROECKER AND BELL CASTING THE DISSENTING VOTES.

E. Hazelwood Property:

Mr. Kidd said that the good news is that while they were trying to buy 35 acres in the Granite Dells area, after five surveys and seven appraisals, they got 37.1 acres, with an option to buy a little over two more. He said that the bad news is it is more money (\$164,000). He said that once the title issues are cleared up on four other lots, they have the option to buy those lots at the price of \$84,000 per acre. He said that now they have overspent their money so they have to do a transfer of some of those funds to account for the \$164,000.

Mr. Woodfill clarified that it is not because of the dollar amount going over the limit, but the complexity required it to move from one fiscal year to another, and they had not appropriated in this year for it. He said that the cash is there because it wasn't spent last year.

Councilwoman Lopas clarified for the citizens that it was supposed to close in June and should have been in the last fiscal year, so it is not a surprise; it is just the need to put it in the new fiscal year.

Mayor Wilson said that they should also emphasize the importance of the acquisition, as it is one of the key properties they identified a long time ago in terms of Granite Dells acquisition. He said that they continue to look at additional property in that area and negotiate with potential sellers, and even though this is not the crown jewel, it is one of the properties they want. Councilwoman Lopas added that it is a historic property, as it originally had a boating lake that the original family put in to try but they had a bad economic time as well.

Councilman Luzius commended Councilwoman Lopas and the Open Space Acquisition Committee on what they have done.

1. Ratification and approval of contract amendment with Hazelwood Family Trust.

COUNCILWOMAN LOPAS MOVED TO RATIFY AND APPROVE THE CONTRACT AMENDMENT WITH HAZELWOOD FAMILY TRUST; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.

2. Adoption of Ordinance No. 4662-0905 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting title to real property known as the Hazelwood Property located in the Granite Dells, and authorizing the Mayor and staff to execute any and all documents to effectuate said purchase.

COUNCILWOMAN LOPAS MOVED TO ADOPT ORDINANCE NO. 4662-0905; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.

3. Adoption of Resolution No. 3902-0904 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona approving the transfer of unencumbered appropriations from the Capital Projects Fund to the 1% Streets and Open Space Fund.

COUNCILWOMAN LOPAS MOVED TO ADOPT RESOLUTION NO. 3902-0904; SECONDED BY COUNCILMAN BELL; PASSED UNANIMOUSLY.

- F. Adoption of Resolution No. 3901-0903 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with Yavapai County and the Yavapai County Sheriff's Office for the City's use of the County's driving track and facility, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Police Chief Randy Oaks said that this is an intergovernmental agreement between the City of Prescott and the Yavapai County Sheriff's Office for Prescott's use of their new driving track located in Prescott Valley located near the County Fairgrounds. He said that the fee is \$25 per year per officer and they had actually budgeted \$50 per year per officer, so it is covered in this year's budget.

COUNCILMAN BELL MOVED TO ADOPT RESOLUTION NO. 3901-0903; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- G. Approval to cancel the August 19, 2008 Study Session and combine with the August 26, 2008 Regular Meeting (due to the League of Arizona Cities and Towns' Annual Conference).

COUNCILWOMAN SUTTLES MOVED TO APPROVE CANCELLATION OF THE AUGUST 19, 2008 STUDY SESSION AND COMBINE IT WITH THE AUGUST 26, 2008 REGULAR MEETING; SECONDED BY COUNCILMAN LAMERSON; PASSED 6-1 WITH COUNCILMAN ROECKER CASTING THE DISSENTING VOTE.

- H. Approval of the Minutes of the Prescott City Council Special Meeting of June 24, 2008, Regular Voting Meeting of July 8, 2008, the Joint Study Session/Special Meeting of July 15, 2008, the Special Workshop of July 22, 2008, the Regular Voting Meeting of July 22, 2008, and the Study Session of August 5, 2008.

COUNCILMAN ROECKER MOVED TO APPROVE THE MINUTES OF THE PRESCOTT CITY COUNCIL SPECIAL MEETING OF JUNE 24, 2008, THE REGULAR VOTING MEETING OF JULY 8, 2008, THE JOINT STUDY SESSION/SPECIAL MEETING OF JULY 15, 2008, THE SPECIAL WORKSHOP OF JULY 22, 2008, THE REGULAR VOTING MEETING OF JULY 22, 2008, AND THE STUDY SESSION OF AUGUST 5, 2008; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- I.* **Adoption of Ordinance No. 4663-0906 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona amending Section 1 of Ordinance No. 4660-0903 regarding the primary property tax levy for FY 2009.**

Mr. Woodfill explained that this was due to the last-minute settlement of the lawsuit with Qwest as it affected the levies adopted.

COUNCILMAN ROECKER MOVED TO ADOPT ORDINANCE NO. 4663-0906; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- I.J. Recess into Executive Session.

The Prescott City Council took at break at 4:50 p.m. and reconvened at 4:55 p.m., and at 4:55 p.m. **MAYOR WILSON MOVED TO RECESS**

**INTO EXECUTIVE SESSION; SECONDED BY COUNCILWOMAN
LOPAS; PASSED UNANIMOUSLY.**

IV. EXECUTIVE SESSION

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

1. Peregrine Subdivision.

V. ADJOURNMENT

The Prescott City Council reconvened into Open Session at 5:15 p.m. at which time the Regular Meeting of August 12, 2008 adjourned.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

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

Dated this ____ day of _____, 2008.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk