

PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/
SPECIAL MEETING
PRESCOTT, ARIZONA
SEPTEMBER 16, 2008

A JOINT STUDY SESSION/SPECIAL MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, SEPTEMBER 16, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Wilson called the meeting to order at 3:01 p.m.

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Reverend Julia McKenna Johnson

Reverend Johnson gave the invocation

◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Suttles
(Performed by the Aerospace Science Leadership Academy Color Guard of Prescott High School)

Members of the Aerospace Science Leadership Academy Color Guard of Prescott High School presented the colors and led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:	ABSENT:
Mayor Wilson	
Councilman Bell	None
Councilman Lamerson	
Councilwoman Lopas	
Councilman Luzius	
Councilman Roecker	
Councilwoman Suttles	

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood said that during the first week of having air carriers back at Prescott Love Field, Great Lakes Airlines at 33 in the week with very little advertising, and they expect that to increase. He said that yesterday in Prescott Horizon had 41 and they had 40 passengers board in Flagstaff.

STUDY SESSION

I. PROCLAMATION

A. September 2008 – *National Alcohol and Drug Addiction Recovery Month*

Councilman Bell read the proclamation and presented it to John Morris, who said that their celebration will be held on Saturday in the Downtown Square. He invited everyone to join them between 10 a.m. and 1 p.m. on Saturday.

II. DISCUSSION ITEMS

A. Fire Department City Code Amendments:

Fire Marshal Ted Galde said that he would be reviewing some code changes that are proposed for adoption. He said that it is the intention of the Fire Department to adopt the most current codes and amendments that they feel are of benefit to the City of Prescott on a regular basis. He said that they are typically published on a three-year basis and when the new ones are published, the City starts working with the stakeholders to massage the codes to work in Prescott.

1. Adoption of Resolution No. 3847-0910 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring as a public record those certain documents filed with the City Clerk and entitled the “2006 International Fire Code” as adopted by the International Code Council, Inc., and that certain document entitled “City of Prescott 2008 Amendments to the 2006 International Fire Code” as a public record, and directing the City Clerk to retain three copies thereof on file.

Mr. Galde reviewed a summary of the proposed changes, as well as a list of the stakeholders that staff had met with. He said that they held a number of meetings with the Yavapai County Contractors Association and they were reviewed by the Fire Board of Appeals until they had unanimous agreement.

Councilman Luzius said that he did not see anything about the occupancy load of 50 people requiring a sprinkler system. Mr. Galde explained that is already in the Code.

Councilman Lamerson asked why the code was applicable only to new construction, and voiced concern with creating different classes of people. Mr. Galde said that they have found that there is a certain resistance to requiring everything to be retrofitted.

Mr. Kidd said that they are able to treat people differently as long as there is a reasonable basis.

Mr. Kidd said that with the Fire Code there are different types of issues. Some apply to old and new; some of the issues, in terms of different classifications, is when a property is built under a certain code. If there is an addition, they can apply the new code to the addition.

Mayor Wilson said that the practical aspect of that issue is that to put in sprinklers in a new building is much less than putting in a sprinkler system in an existing building.

Councilwoman Suttles asked if the Elks Theater could be used as an example of something that they could not retrofit. Mr. Galde said that it could be retrofitted; any system can be retrofitted. Councilwoman Suttles said that she thought that if they had something on the National Historic Register and they added a sprinkler system, it would change it.

Mr. Galde said that there is a lot of construction built in the community that was the best standards available, when it was built. They have since found some of that puts them at risk. Whenever there is a remodel of a business, the plans get scrutinized by the Building and Fire departments. They look to see if the use is going to be more or less hazardous. He said that fundamentally, a sprinklered building is the most protected and they would ideally have all building sprinklered. He said that 85% of fatalities are in homes and they don't do inspections in homes, and that is a reason to want to have residences sprinklered.

Councilman Bell said that he has a problem with the timing and how long it takes to get buy-in from the groups. He said that four months from now there will be the 2009 Codes out, and it seems like they are always three years behind.

Mr. Galde said that this Code cycle has taken them longer than they wanted or anticipated. Normally the new codes come out in the spring of the year with the first edition. They like to wait until the second edition, if possible, so the bugs get worked out. Also, by the time they get stakeholder groups together and begin evaluating, it is going to be January or February of the following year before they adopted new Code. He said that there were some issues that needed to be ironed out with the Wildland-Urban Interface Code and the Chief wanted to be able to bring all codes before Council at the same time.

Councilman Bell asked if the neighboring jurisdictions had adopted these same codes; Mr. Galde replied that Yavapai County and the Central Yavapai Fire District had.

2. Adoption of Resolution No. 3849-0912 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting by reference that certain document entitled “2008 City of Prescott Explosives/Blasting Standard, a Supplement to Chapter 33 of the 2006 International Fire Code” as a public record, and directing the City Clerk to retain three copies thereof on file.

Mr. Galde explained that there is a difference between a code and a standard. The Code is what they have to do and the standard is how they do it. They reviewed the Explosives/Blasting Standard with the local contractors and blasting consultants, as well as other groups.

Councilman Luzius said that he read earlier that the blasters have to have a minimum of \$1 million insurance in favor of the City. He said that he didn't see anywhere that they had to have insurance for the protection of citizens. Mr. Kidd said that in that case they would have a cause of action against the company doing the blasting.

Councilman Roecker asked if the Department of Homeland Security had any restrictions on blasting. Mr. Galde said that he could not speak to Homeland Security but the Bureau of Alcohol, Tobacco and Firearms has very strict regulations and they have no qualms with driving here to inspect blasting magazines.

3. Adoption of Resolution No. 3846-0909 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, rescinding Resolution Number 3454 and adopting a new resolution establishing and adopting a revised fee schedule pertaining to Fire Department permits, inspection fees, licensing and certification fees, plan and plat review fees and miscellaneous fire services fees.

Mr. Galde reviewed the new fee schedule, stating that they compared it with eight other cities/towns in Arizona. He noted that they have not altered any fees over the last five years. He added that they are also working on a commercial burn permit with the Arizona Department of Environmental Quality.

Mayor Wilson questioned the different fee for public records requests, compared to the City's general policy. Mr. Kidd said that the fee schedule should be modified to coincide with the City's general policy.

Councilman Luzius, in referring to Page 3 of fees, asked what a single canopy was. Mr. Galde said that there is a separation between tents or canopies, such as at the air show, each was a stand-alone structure. Councilman Luzius asked about individuals or rental companies that may put up their own canopies and whether they would have to pay the fee. Mr. Galde said that they can become a life safety hazard. He said that if they are privately rented and installed they generally don't get involved; however, they would get involved with the public membrane structures.

4. Adoption of Resolution No. 3848-0911 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting those certain documents entitled the “2006 International Wildland-Urban Interface Code,” as adopted by the International Code Council, Inc., and that certain document entitled “City of Prescott 2008 Amendments to the 2006 International Wildland-Urban Interface Code” as a public record, and directing the City Clerk to retain three copies thereof on file.

Mr. Galde reviewed the proposed changes to the Wildland-Urban Interface Code, and discussed the stakeholder groups that they met with.

Councilman Lamerson said that they have had some fires in Prescott lately, but they don't seem to be many of the new buildings, but rather the old ones. He is concerned that they are not building within the Code some mechanism to ensure the same sorts of fire protection is in the older buildings.

Mr. Galde said that he could not fault Councilman Lamerson for his thoughts and comments. He said that the older structures do not have built into them good construction methods or good fire protection systems. He said that in 1982 they began requiring sprinklers and alarms in structures over 7,500 sq. ft. and since then it has moved down to 5,000 sq. ft. He said that the older structures in town certainly are susceptible.

Councilman Roecker thanked the Fire Department for taking time to involve the stakeholders.

Sandy Griffis, Executive Director of Yavapai County Contractors Association (YCCA), 810 Sheldon Street, said that they give their support 101% on the Code amendments and new blasting standards. She said that it was an honor to work with the Fire Marshal, the Fire Chief, and the whole team. She said that it is

something that the City needs and they requested the Council adopt the amendments.

Gary Royceton thanked the Prescott Fire Department for their work done in bringing forward the Code. He said that it seems like there is no real interest until there is a fire nearby, but the Code will help mitigate.

Charlie Hildebrandt said that the landscapers' group was one of the reasons it took so long, but it ended well and hopefully they came to an agreement that will keep the City safe and still beautify the homes.

Jerry Borgot said that he was very pleased with the work that the Fire Department has done in getting the Code in order, especially the wildland-urban interface.

Mr. Galde said that Prescott is the first City in Arizona that has adopted the Wildland-Urban Interface Code, and there have been five since then. He said that they are a nationally-recognized city regarding the use and application of that code.

- B. Approval of Amendment Two to Contract #2008-024 with PBS&J for Zone 39 Water Mains and Pump Station Upgrade Project engineering and design services in an amount not to exceed \$147,408.00, and project update and petition response.

Mr. Nietupski said that this item is two-part. First is the recommendation for approval of a contract amendment for replacement of an existing 6" sewer main and reconstruction of the patchwork of Country Club Drive between Park and Vista.

He said that the second part of the item is a petition response and update of the project for Council's consideration.

Councilman Luzius asked if staff had a rendering of what they were talking about on the Zone 39 project. Mr. Nietupski said that he did not have a rendering for the street section, but it would be curb, gutter and sidewalk.

Councilman Bell asked what the first amendment was on the contract. Mr. Nietupski said that he could not recall what the first amendment was for, but he could have that information at the next meeting.

Mr. Nietupski said that the project update is to let the Council know that engineering is proceeding for the Zone 39 project in conformance with Federal, state and local codes. The basis for the project is founded on the

City's Water Model adopted in 2006, and public meetings were held on May 8, 2008 and July 10, 2008.

Mr. Nietupski said that on July 11 and August 1 the Prescott Preservation Commission reviewed the project and recommended approval with the following conditions:

1. Install new water tank that is to be painted forest green
2. Install one tower for communications
3. Antennas to be attached to the tank
4. Chain link fence be vinyl coated with brown/tank color
5. Split face block retaining wall to be painted a brown color, not grey
6. Five new 36" box trees be planted eight to ten feet in height and installed to mitigate the view of the tank, with a system to be installed until no longer needed for a period of ten years to water the plants in the hill area.

The Commission's motion was amended to include that the monopoles be attached or adjacent as per necessity as determined by the City's public utilities department, which passed 6-0.

Mayor Wilson asked Mr. Nietupski if staff was okay with the Commission's recommendations. Mr. Nietupski said that they were okay, but as indicated in the motion, they felt it would be appropriate to maintain separation of the tank with the new antenna, particularly for security measures. He said that there will be sensors placed on the tank.

Mr. Nietupski then reviewed the schedule for the project, stating that the design is 90% complete and they are anticipation complete design by the end of September.

He said that all issues raised have been addressed through the State Historic Preservation Office (SHPO) and they have been incorporated into the project plans and specifications. SHPO has required the City to prepare a site survey and monitoring plan which will be submitted for approval prior to building the tank.

Mr. Nietupski said that the project will significantly improve the City's water system and water service, and public safety will be enhanced by it. There will be higher pumping capacity, increased storage volume, higher fire flows and improved system reliability. The system improvements will provide the most cost effective and efficient means for the delivery of water to the citizens in Zone 39 in South Prescott.

He said that the petition responders have protested the location of the tank in as much as it replaces the existing facilities there, and it is staff's

recommendation that because of the benefits to the general public that the project proceed as recommended by PBS&J.

Councilman Luzius asked if a protest did not come into play if they had a petition representing a majority of the people. Mayor Wilson said that the City Charter defines a petition, and states that they can submit petitions and the Council is required to take action on 30 days. He said that this is not a rezoning change and that is why the super-majority is not in effect. Mr. Kidd said that is correct; they are two separate processes.

Mr. Kidd said that it is an administrative action and not subject to referendum, and the petitions are not referendum petitions. Mayor Wilson said that their motion on the project will signify their position on the petitions.

Councilman Luzius asked, if they have five or six hundred citizens in the area that are against it, how they get their “day in court.” Mayor Wilson asked where the number came from and Councilman Luzius said that a citizen told him that. Mayor Wilson said that he has not seen any evidence of that and he only believes what he can prove.

Councilman Luzius requested that the item be pulled from the consent Agenda.

Councilwoman Suttles asked if they were looking first at the water and sewer lines. Mr. Nietupski said that was correct; the first phase would only be water main construction in conjunction with the pump station itself. The sewer would not come until the second phase. He said that it is an overall system improvement that was designed to function as a whole.

Mayor Wilson read a portion of a letter written on September 3, 2008, included in the Council packet from Debra Kaukol from Save Prescott Hills group, stating that such type of government was irresponsible and incompetent.

At this time, Mayor Wilson opened it up for public comment, requesting that they not regurgitate what they have gone through in previous sessions, and that they have one person speaking for the group.

Cathy Rusing, 1904 Young Place, a member of Save Prescott Hills Coalition, presented a handout to the Council members that depicted plans for Indian Hill.

Ms. Rusing said that their opening prayer talked about freedom and rights, but she feels like she signed up to live in a gulag. She said that they are putting up a 1.3 mg water tank and on the site plan she received, there

were going to be six commercial cell towers, but now it is down to a monopole and one commercial cell tower that will be 85' tall.

Ms. Rusing said that there is a historical district right across the street from Indian Hill and there is a federal law that protects the viewshed of the historical area. If they put up an 85' cell tower then they are in violation of the federal law, although public safety antennas are exempt. Yesterday she went to Public Works and picked up a copy of the proposal for design of many more tanks on the hills, and there is a new tank designed for Thumb Butte.

She said there are several more tanks that are going to have the same public opposition. Mayor Wilson said that those items are not on the agenda and those comments should be brought up at the time that those are on the agenda.

She said that they would like to propose Open Space Indian Hill and work with Public Works to design one 5 mg tank up north on the other side of town behind Hassayampa off of Copper Basin. She said that an example is in Flagstaff where they have a 5 mg tank on Forest Served leased land.

Ms. Rusing said that they are the taxpayers, voters and citizens and would like to request that their open space funds be used to purchase Indian Hill from the City. By open spacing Indian Hill the City would be increasing the property values instead of destroying them. By taking Indian Hill off the table the City would be forced to develop a comprehensive water plan that doesn't destroy the hills.

Mayor Wilson said that he was at the Open Space Acquisition Committee when their presentation was made and the response from the Open Space Committee was that the City already owns the hill. It would not be proper for the City to buy property from itself and they basically turned down the group's request and he feels the same way.

Councilman Roecker said that Ms. Rusing mentioned that the City was in violation of a Federal law and asked Mr. Nietupski the status of that. Mr. Nietupski said that the City does not share that opinion. This has been an existing City facility since back in the 1950's and they have the responsibility to provide service and they do not believe that the argument that they are destroying the viewshed is sustainable in this case, although he is not an attorney.

Mr. Kidd said that he agrees with Mr. Nietupski's comments. He said that he also wanted to bring to Council's attention is that right now there is a lawsuit in Paradise Valley regarding the regulation of cell towers. He said that there is a great deal of federal preemption with regard to cell towers.

Mr. Nietupski said that the mitigation recommended by the Prescott Preservation Commission was to consider the viewshed as well, with the colors being applied. He said that the complexity of the City's water system is significant in that it is comprised of multiple zones. A one-tank scenario is not suitable for this application. As shown on the zone map, the zones are linked, but they operate independently and one well would not work effectively and economically.

Ms. Rusing asked everyone that was attending the meeting regarding the Indian Hill item to stand.

Councilman Luzius asked that the speakers be given information on the timing sequence (of the light). Ms. Burke explained that they were given five minutes at which time the light is green; with one minute remaining the light turns yellow and when the five minutes was up, the light turns red.

Debra Kaukol attempted to address the Council. Mayor Wilson stated that he had previously indicated that he would have one speaker of the group address the Council, as outlined in the Council procedures. Ms. Kaukol said that they are individuals and not there as a group. Mayor Wilson said that he previously stated that they were not going to regurgitate what has been stated in the past.

Ms. Kaukol continued to speak, stating that she was a paying citizen of Prescott and does not expect to be interrupted. She said that the Mayor was showing part of his incompetence and irresponsibility. She said that he got her letter all wrong. She said that their taxes would be lowered because of the tank and that it was four years ago that they planned it; it was approved in 2007 under Rowle Simmons and they are just hearing about it, in April of 2008.

She said that when she talks about incompetence and irresponsibility she was talking about questions such as with Hassayampa Lake when the City Council sold it to a developer or the Colorado River water rights when the City sold them. Now they are going down the same road with tanks on hills, they are calling them reservoirs.

She said that she was appalled at the behavior of the Mayor as she is a citizen and has every right to be there, and his disrespect. Mayor Wilson said that he thought that Ms. Kaukol was disrespecting Council procedure. She said that she was a citizen and had every right to stand up and talk about her opinions.

Ms. Kaukol said that the Fire Chief talked earlier about old technology and safety hazards, and now the City is going to put on a small hill, according to PBS&J, who agrees that the hill is too small for a 1.3 mg tank, a 510,000 ton water tank. They have to build a retaining wall and backfill it.

She asked how long the backfill had to sit before it is stable enough. She said that if they start building a 510,000 gallon water tank on backfill with a retainer wall they will get the same exact thing that happened at Lowe's, guaranteed, plus they will get lawsuits from all the neighbors. She said that it was affecting lives and the general welfare of Prescott residents and it being violated.

Terry Carillo, Banning Creek Road, said she was new to the area. She said that she was a homeowner, a taxpayer and a voter and she thought the Mayor's lack of respect to the people that voted him in is very appalling.

She asked the Mayor if he treated all the people that voted for him as he walked in the neighborhoods in the same manner he was doing now. Mayor Wilson asked if she had something to say regarding the issue. She said that she did and she would talk to him in the same manner he was talking to her.

Mr. Kidd explained that the Mayor has a prerogative, as the chair of the meeting under Council Rules and Policy, to determine the order of business. He said that the policies have been adopted to preserve decorum in the meetings. He said that the policy states that if they are speaking on behalf of a group, then it is appropriate to have one representative. It is also appropriate to ask if there are additional comments to what has already been said. Those are matters of decorum that are preserved under the authority of the Mayor.

Ms. Carillo said that she respects all of that, but what she didn't appreciate was the respect coming from the Mayor that was voted in by the members of the community. She asked what the procedure was when a project goes out to bid Mayor Wilson asked Mr. Nietupski to respond. Ms. Carillo said that she didn't want to hear from Mr. Nietupski, she wanted to hear from the Mayor. She then asked if there was a timeline for everyone to submit on a bid, and whether it was an open or closed bid, and if it was posted in the newspaper or somewhere where the public can see what is going out for bid. She asked if the results of the bid were posted.

Mayor Wilson asked how Ms. Carillo's questions related to the agenda item. Ms. Carillo said that it went out to bid.

Mr. Nietupski said that the City of Prescott abides by State Statutes. This particular project was a design contract for Statements of Qualifications and they comply with all State Statutes in the process. Ms. Carillo interrupted at this time, stating that Mr. Nietupski could not give her the answer.

Mayor Wilson asked the Sergeant at Arms to remove Ms. Carillo from the meeting. Ms. Carillo left the meeting at this time.

Bill Richards, 425 Fairway View Drive, said that he was addressing the Council on his own behalf, in reference to a letter he wrote to the Council and delivered to City Hall on August 29, 2008. He then read a few points of the letter, including the recommendation that the current plan to tear down the two existing water tanks and replace them with one overly large 1.3 mg tank should be stopped or delayed for at least two years, so that alternate tank sites can be found.

Mr. Nietupski said that there was a thorough look at what potential sites could serve for the construction of the tank. Due to a number of issues regarding accessibility and elevations in the zone itself, it was determined that the best location was the existing Indian Hill.

Councilman Roecker said, from his perspective, having watched the issue, each time someone has a comment in a reasonable manner that they follow up on it. They have them look at it and answer questions. If they don't like the answer that is the way it goes, but they are proceeding on the project just like they do on all City projects.

He said that the outbursts are not helpful. To write letters to the Council stating they are incompetent is not helpful. They are citizens too, trying to do the best they can.

Councilwoman Suttles said that they sit up there and they're elected, trying to do the best for all. She said it was a very emotional project for the neighborhood, but they need to present themselves in a professional manner in order to have the credibility. Getting into a heated argument and have things happen as she witnessed will not get anything done on either side.

Councilman Lamerson asked for clarification from Chief Willis regarding the optimum storage capacity for the area. Chief Willis said that he had previously stated it would be 3 mg, but it was actually 2 mg. Councilman Lamerson said that he had heard someone say they were going to build a 1.8 mg tank and he asked who made that decision, and he was told it was Mr. Mattingly, thinking it was a pretty good compromise. He said that it is not just about water for fire, because they typically don't fight fire with water as they do serve the community with water delivery.

Mr. Nietupski said that it is used for both fire suppressions and to supply water to the customers. Councilman Lamerson said that it is not just about placing one big tank to service the whole City; they need a tank up there with the ability to service that general location. Mr. Nietupski said that was correct; the tank was for Zone 39. Councilman Lamerson said that if they

don't have enough water up there they don't have enough water to flush. Mr. Nietupski said that they do not have appropriate storage for that zone and that is why system improvements are being recommended.

- C. Award of bid for the Airport Centrifuge Building and Equipment Installation Project to Fann Environmental, Inc., in the amount of \$650,724.00.

Mr. Nietupski reviewed this project, stating that it was for a new building at the Airport wastewater treatment plant to house equipment and controls. He said that it is a system that will replace a 30 year old worn-out belt press that will provide more effective dewatering of the City's sludge.

- D. Approval of a one-year funding agreement with Prescott Community Access Channel.

Administrative Services Director Mic Fenech said that this item is asking for Council to approve a one-year funding agreement with Prescott Community Access Channel (Access13). He said that there is a copy of the proposed contract with PCAC, and the contract it is replacing was a three-year agreement. Staff is recommending that they return to a one-year agreement, mainly because the City will be negotiating with CableOne in August of 2009 for a new contract and that contract is how PCAC is funded through the City. PCAC currently receives 25 percent of the fees received by the City.

Councilman Bell asked if in the agreement they have with PCAC if there was any requirement for them to identify an accountability of the funds that the City provides to them. Mr. Fenech said that in the agreement they are to provide to the City Manager a financial statement at the end of the year and they have done that.

Councilman Roecker asked if they are currently operating month to month since the last contract has expired. Mr. Fenech said that was correct. Councilman Roecker said that in looking at the amount of funds, there are services offered by PCAC that the City never uses and perhaps there could be some negotiation to reduce the amount of money. Mr. Fenech said that they have not made any adjustment as a result of not using some of the services.

Maureen Van Wallaghan, Chairman of the Board of PCAC, said that at this point it is not being fully serviced because the department that handles that via Communications is not able to access those services. She said that they have submitted that potentially it would be an interesting issue to have a separate channel, Channel 15, which Mr. Mechanic originally brought up in March, but that has been tabled by the City at this time.

Councilman Roecker said that his next suggestion was that they would look at using Channel 15 for whatever services they can use and pull it in house, if possible, to provide the City meetings and others, and leave it at that. Mr. Fenech said that there is a possibility of doing that, but there would be some things to do to make that happen.

Kim Kapin, Communications Manager, said that if they pulled in their own staff to tape meetings, they would have to pull someone in full time to make full potential, at about \$40,000 a year for that staff person.

Mayor Wilson said that one of the issues is that they have a hiring freeze, and they will have a problem getting \$40,000 anywhere.

Councilman Roecker said that he would suggest that they go into another negotiation before signing another contract, and the citizens should be paying only for the services they are receiving.

Ms. VanWallaghan said that there are a lot of invisible services that the City is getting right now, but they don't take into consideration. She said that some of those services include the safety issues, such as when they had the salmonella situation with tomatoes, they actively pursued having that on Channel 13. In the most recent fire, they actively pursued to have that information available. She said that they provided the leadership to get that information and have it on the air, although it is something the City should be doing.

Mr. Fenech said that the current contract the City has does provide for up to six public service announcements (PSA's) a week. Anything over and above that would be provided by PCAC they appreciate.

Councilman Lamerson asked if CableOne tells the City how to use the monies received from the franchise fees. Mr. Kidd said that it has been a few months since he reviewed it, but he believes that the City does have some discretion on how it is used. The agreement with CableOne is up for renewal next year and the City will have to comply with the new cable franchise requirements.

Councilman Lamerson asked if they have talked to Prescott Valley about possibly co-oping with them. Mr. Kapin said that Prescott Valley does have its own studio that is beautiful, staffed and runs very well. He said that they have Channel 15 and they run programming on Channel 13. He said that they have never talked about co-oping which is possible, although not very practical.

Ms. VanWallaghan said that when Prescott Valley renegotiated their contract with CableOne they renegotiated their contract with Channel 13 for ten years. Councilwoman Suttles asked what the dollar amount is that

Prescott Valley pays for that service. Ms. VanWallaghan said that it is less than Prescott because it is a smaller area, but she does not have that number today.

Councilwoman Suttles said that last year they paid over \$82,000 to Channel 13, and she read some recent information that stated the City uses Access 13 personnel less than 20 hours a month. Ms. VanWallaghan said that she is new to the venue and Monika Bishop, the Executive Director, has worked up some numbers which she would be glad to get to the Council.

Councilwoman Suttles asked that the item be pulled from the Consent Agenda and that the Council receive the additional information before the next meeting. She said that for Channel 13 to get 25% of what the City receives in franchise fees seems a bit high to her. She said that it may be that she is not familiar with the services because she is on dish. Ms. VanWallaghan said that is also an issue they are trying to address by providing those meetings on line. She said that it is similar to what Prescott Valley provides on their web site, but it is a very expensive system.

Councilwoman Suttles asked if Access 13 has any other funding source. Ms. VanWallaghan said that one of the big issues that is difficult for them is space. They are in a situation where they cannot provide more services, partly due to their space, and generate income via educational endeavors, fundraising processes, etc. She said that within their negotiations about Channel 15, when it was originally proposed, was that they would maintain the funding structure of underwriting as the City decided they didn't want the underwriting on Channel 15.

Councilwoman Suttles said that she finds it hard to look at a ten-year renewal of the contract. She would like to see them get together and negotiate less than the 25 percent. She said that the City has a chance of a governmental channel on its own and she believed that the equipment they have can be used for that. She is questioning whether they have to bring a person in to do that. She said that there are a lot of things that have not been answered yet.

Ms. VanWallaghan said she believes that Channel 13 has been incredibly cooperative in the process because they understand that the new negotiations for CableOne affects them, and they don't want to put the City into a position where it is saying they will pay them and the contract doesn't look the same. Because of that they were happy to go with the one-year plan at this time.

Ms. VanWallaghan said that she would be happy to highlight how they are spending their money and the services they provide. It appears that there is an ongoing, long-term tumultuous relationship between the City and Access 13. Her hope as Board Chair is to change that relationship and re-visit it. If that means less money, then that is one piece of the conversation, but there is a whole variety of things that are not directly related to money that could be addressed. She said that if the door is still open to work another contract she would like to do that.

Mayor Wilson said that his problem is not with the money. He thinks there is another way of looking at it and that is how the City can use the cable access channel more effectively and efficiently to do what they need to do. He believes they should put the agreement before them to bed, but have room for discussion on the future one.

Ms. VanWallaghan asked, if the contract was put to bed, what the process was for reviewing the bigger picture. Mayor Wilson said that they can talk at any time. In his mind they need a contract in place because they are operating without one. The underlying issue is some of the lack of comfort with what is on Channel 13 right now and if they had 15 that would all go away.

Mr. Norwood said, assuming it gets put to bed next week, this fall they will start working with CableOne on negotiations, which would probably take at least six months. He said that they may be willing to pick up \$40,000 in staffing expense; they don't know until they get into those negotiations. The government channel would be strictly government and there is a legal question of advertising on a governmental channel. They have to comply with the Federal Communications Commission (FCC), so it will not be a two-week turnaround.

He said that he is hearing that they need to get it done, but the bigger picture is of doing it themselves. There are some issues to look at with CableOne, Prescott Valley, the cost of doing it themselves, etc. His recommendation is to get this put to bed for the remainder of the year, or he is okay, too, with trying to negotiate that down a little.

Councilman Roecker asked what the danger was of continuing without a contract. Mr. Norwood said that they could stop providing service at any time. Councilman Roecker asked if the City owns their equipment. Mr. Kidd said that they have an allocation of liability and responsibility in the contract. They negotiated the contract over the last month. The old contract didn't have a lot of the liability issues addressed and they are covered now. If they don't have a contract, none of the cancellation, payment terms, etc. would go into effect.

Ms. VanWallaghan said that she will provide how their money is spent, the number of hours and the services they are providing, and will clarify what meetings they cover. Councilwoman Suttles asked if she could also let them know how many homes they reach. Mr. VanWallaghan said that is difficult to tell. She said that she is a teacher and won't have a chance to get to this until Saturday, and asked if that would be soon enough. Council agreed she could provide the information to Mr. Norwood or Ms. Burke at the first of the week. Councilman Roecker asked that she also provide information on any fundraisers.

- E. Approval of funding in the amount of \$26,324.65, plus tax, for the PRCC Phase II, 9-1-1- wireless upgrade.

Emergency Services Director Darrell Willis said that the State of Arizona has notified the City that they have some 9-1-1 excise tax funding for the remaining four counties of Arizona to implement Phase II wireless 9-1-1 system. The funding will pay for nine consoles in the Communications Center to bring equipment needed so that when someone dials 9-1-1 anywhere in the area, they will be routed to the appropriate 9-1-1 answering point.

- F. Adoption of Ordinance No. 4668-0911 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting a public sewer easement from Project Aware, Inc., in the vicinity of 215 West Leroux Street in the Prescott Original Townsite and authorizing the Mayor and City staff to take necessary steps to complete acceptance and dedication as a City of Prescott public sewer easement.

Mr. Nietupski said that this is to accept an easement for an existing sewer line on the Project Aware property at 215 W. Leroux Street. He said that Project Aware has agreed to dedicate the easement to the City at no cost.

- G. Approval of the Minutes of the Prescott City Council Joint Study Session/Special Meeting of September 2, 2008, and the Regular Voting Meeting of September 9, 2008.
- H. Selection of items to be placed on the Regular Voting Meeting Agenda of September 23, 2008.

Councilwoman Suttles read the following items to be placed on the Consent Agenda: A (with all four listed individually), B, C, E, F and G; Items B and D will be on the Regular Agenda.

III. ADJOURNMENT

COUNWOMAN SUTTLES MOVED TO ADJOURN; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

The Study Session of the Prescott City Council of September 16, 2008 adjourned at 5:32 p.m.

SPECIAL MEETING

1. Call to Order.

The Special Meeting of the Prescott City Council was called to order at 5:40 p.m.

2. Recess into Executive Session.

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

The Prescott City Council recessed into Executive Session at 5:40 p.m.

3. EXECUTIVE SESSION:

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

- i. Adelle Williams Agreement.

- B. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting, pursuant to A.R.S. Section 38-431.03(A)(1).

- i. Annual evaluation of City Manager.

- *C. Discussion or consultation for legal advice with the attorney or attorneys of the public body and 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 A.R.S. §§38-431.03(A)(3) and (4).**

1. **Big Chino Water Ranch.**

4. POST EXECUTIVE SESSION:

The Prescott City Council reconvened into Open Session at 7:10 p.m.

- A. Consideration of amendment to Employment Contract with Steve Norwood.

**COUNCILWOMAN SUTTLES MOVED TO EXTEND THE CITY
MANAGER'S EMPLOYMENT CONTRACT FOR ONE YEAR AT THE
SAME PAY AND BENEFITS SCHEDULE; SECONDED BY
COUNCILMAN ROECKER; PASSED UNANIMOUSLY.**

5. Adjournment.

There being no further business to be discussed, the Prescott City Council Special Meeting of September 16, 2008 adjourned at 7:10 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk