

PRESCOTT CITY COUNCIL  
COMBINED SPECIAL MEETING/  
STUDY SESSION  
TUESDAY, OCTOBER 21, 2008  
PRESCOTT, ARIZONA

MINUTES OF THE COMBINED SPECIAL MEETING/STUDY SESSION OF THE PRESCOTT CITY COUNCIL held on OCTOBER 21, 2008 in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor John Perry, Alliance Bible Church

Pastor Perry gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Luzius

In Councilman Luzius's absence, Mayor Wilson led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

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

ABSENT:

Councilman Luzius

Mayor Wilson mentioned that Councilman Luzius was under the weather today, but expected to be back next week.

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Mr. Norwood reminded everyone that on Saturday, October 25, 2008, the Prescott Police Department would be holding the "Dump the Drugs Day" from 8:00 a.m. to noon, where expired prescription drugs could be dropped off.

## SPECIAL MEETING

- I. Acceptance of land donation from the Harold James Family Trust valued at \$1.2 million.

City Attorney Gary Kidd said that it was his pleasure to announce that the City Council had previously authorized the purchase of the James Property and they were able to go through escrow 25 days early, closing the purchase earlier in the day. He said that they did an environmental report and it along with the surveys was clean. The biggest news, he said, was that part of the purchase entailed a donation agreed to by the Harold James Family Trust. The Trust had agreed to donate the value of the property over and above the purchase price of \$4 million. The most recent appraisal came in at \$5.2 million, equating to a \$1.2 million donation to the City. At this time he turned the presentation over to Parks and Recreation Director Debbie Horton.

Ms. Horton gave a PowerPoint presentation to refresh everyone's memory on the property being acquired. After the presentation, she invited Councilwoman Lopas forward, who then invited members of the James Family that were present to come forward.

Councilwoman Lopas said that as liaison and former Chair of the Open Space Acquisition Advisory Committee, they were thrilled to have the opportunity to receive the property and donation. She then unveiled the new trail marker that would be installed at the beginning of the trail.

Mr. Ron James said that it was a beautiful piece of property and they were glad everyone agreed that it needed to be preserved. He said that he can hardly wait to have the trails created on the property and would like to be a part of that development. He thanked the Council for their presentation. Mayor Wilson added that he was grateful that it had come to pass.

**COUNCILWOMAN LOPAS MOVED TO ACCEPT THE DONATION OF \$1.2 MILLION FROM THE HAROLD JAMES FAMILY TRUST TO THE CITY OF PRESCOTT, AND TO APPROVE AND AUTHORIZE THE MAYOR AND STAFF OF THE CITY OF PRESCOTT TO EXECUTE THE ACCEPTANCE OF DONATION DOCUMENT AND ALL FURTHER DOCUMENTS NECESSARY TO ACCEPT AND ACKNOWLEDGE THIS DONATION; UNANIMOUSLY SECONDED AND PASSED UNANIMOUSLY.**

Mr. Kidd added that he would like to recognize Sal Lutey, attorney for the James Family Trust, and acknowledge his contributions to get the contract through so timely. He said that it was one of the best contract forms he has seen and it was a pleasure to work with him. In turn, Mr. Lutey stated that it had been a real interesting project, since it is not often that lawyers get to work on such positive projects and provide such benefit to the community. He said that it was very good

to work with Mr. Kidd on the project. He said that they both pulled together and got the project done early, something rewarding for them and the community, and for those that will come after them.

I. Adjournment.

There being no further business to be discussed during the Special Meeting of the Prescott City Council held on October 21, 2008 it adjourned at 3:12 p.m.

## STUDY SESSION

### I. PRESENTATION

A. Presentation of recognition by the American Planning Association of the *Yavapai County Courthouse Plaza as One of the Great Places in America*.

Mike Bacon, Planner for the City of Prescott, said that he was pleased to announce that the American Planning Association had recognized the Yavapai County Courthouse Plaza as *One of the Great Places in America*. He reviewed the application process and showed a video created by Kim Kapin that had been submitted along with the application.

He then presented the plaque to Mayor Wilson and Nancy Burgess provided copies of a booklet prepared that outlined the recognition.

Mayor Wilson then invited Board of Supervisors Carol Springer forward, at which time he presented a similar plaque to the County.

### II. DISCUSSION ITEMS

A. Approval of disbursement to Habitat for Humanity in the amount of \$49,999.99 in CDBG funding for the purchase of tools for the lending program.

Grants Administrator, Linda Hartman, said that in April of 2008 the Council approved the City's 2008 Annual Action Plan that included \$50,000 for a tool lending program requested by the Prescott Area Habitat for Humanity. This item was for approval of disbursement to Habitat for Humanity in the amount of \$49,999.99 for their tool lending program, and she commended Susan Hart for her preparation of the handbook which took six to seven weeks to complete.

Councilwoman Suttles asked if it was done through a CDBG grant. Ms. Hartman said that was correct. Councilwoman Suttles said that she was pleased they were able to get it, and asked Ms. Hartman to explain

the lending process. Ms. Hartman said that some of the tools will be lent to homeowners, and Habitat for Humanity will target ten houses this year and volunteers will use the tools to provide services that would oftentimes be provided by a professional.

- B. Adoption of Resolution No. 3907-0913 – 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 County provision of motor vehicle fuel for use in City vehicles, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Fire Chief Bruce Martinez said that this resolution would allow the City of Prescott Fire Department to continue use of the County fuel facility at 1100 Commerce Drive for use on the foam trucks at the Airport. He said that this allows them to refuel and remain in close proximity to the Airport. He said that it has been in place since 1999 and the only changes are for them to take more security measures. There is no change in cost of the fuel.

- C. Adoption of Resolution No. 3909-0915 – 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 and a Mutual Aid Compact Agreement with the Arizona Department of Emergency and Military Affairs for mutual assistance during emergencies, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Emergency Services Director Darrell Willis said that the State of Arizona has never had a statewide mutual aid agreement, but after 9/11 and Hurricane Katrina FEMA was told to retool, and this is part of that. This is part of a national program to allow communities to have a mutual aid program. In the past they have used the Wildland Mutual Aid agreement, but this formalizes the process.

- D. Approval to purchase crack sealant from Crafc0, Inc., in a not-to-exceed amount of \$60,000.00, through the ADOT's (Arizona Department of Transportation) contract.

Chad McDowell said that the City has an annual program where they crack seal the cracks on the roads to preserve them. It has been an improved method of maintenance, and they are looking to piggyback off ADOT's contract. He said that they have used Crafc0 in the past.

- E. Approval to purchase 95 front-loading containers from Action Container Solutions in the amount of \$80,199.95.

Mr. McDowell said that this is the City's annual program for replacing the metal dumpsters provided to businesses. He said that they often become a safety hazard, so they like to replace them annually, although they only replace those that need to be replaced, so it is a not-to-exceed amount.

- F. Award of a five-year contract to Fann Contracting, Inc., for hauling services in the amount of \$12.79 per ton, with an amount not to exceed \$805,770.00 per year.

Mr. McDowell said that this item is for award of a five-year contract for hauling services. Councilman Bell declared a conflict of interest on this item as well as Item H. Councilwoman Suttles noted that they would be pulled from the Consent Agenda.

Mr. McDowell said that every five years the City goes out for bids for this service. He said that Fann Contracting was not the lowest bidder, Ash Fork Sanitation was, but they did not have an Arizona Contractors License or a Department of Transportation License which enables the City to check how they are operating. He said that Ash Fork Sanitation was the low bidder five years ago, but were not awarded the contract then. He said that there was a draft contract in the packet and the fuel charge works both ways, benefiting the City and the contractor. Mr. Fann noted that the vehicles would be all diesel.

Councilwoman Suttles asked how long Fann Contracting has been in the refuse transport business. Mr. Fann, 450 Whetstine, said that they have been in the hauling business for 48 years, but this is their first venture into hauling refuse. Councilwoman Suttles asked if they would be bidding in other areas. Mr. Fann replied that it was not likely.

- G. Adoption of Ordinance No. 4673-0916 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, vacating and abandoning certain municipal rights-of-way which consist of portions of Garden Street and an alley located west of and parallel to Grove Avenue south of Sheldon Street and sell and convey to Prescott College and authorizing the Mayor and City staff to take all necessary steps to effectuate such vacations and abandonments.

Public Works Director Mark Nietupski said that this is a request from Prescott College to abandon a segment of Garden Street south of Sheldon Street in the vicinity of Butte Creek and the alley west of and parallel to Grove Avenue between Western Drive and Sheldon Street. He said that the portion of Garden Street is unimproved with a large portion of

the right-of-way in the Butte Creek floodplain, making it inaccessible to vehicular traffic. He said that there are no plans to improve this segment of Garden Street due to the limited benefit it would provide and the significant cost of bridging Butte Creek. Existing utilities located in Garden Street will require a public utilities easements be retained.

Mr. Nietupski said that the alley is improved, although in poor condition, and contains all available public utilities requiring a public utilities easement be retained for further operations and maintenance. He said that the College's abandonment request is to improve pedestrian safety.

Mr. Nietupski said that the City has received a Letter of Understanding from the College that should any improvements to the alley be approved for pedestrian use, any maintenance/repairs would not cause any cost to the City. He added that there have been concerns by the neighbors to the request as sometimes they use the alley for a cut-through, although that is not the typical intended use.

After a request by Councilman Lamerson, Mr. Nietupski clarified that the request includes two separate areas—one being the roadway and the other the alley. He said that the street was previously closed by the City, based on a prior request of the neighbors; the alley itself is a new request.

Councilwoman Suttles asked how many homes back up to the alley. Mr. Nietupski said that the area of requested abandonment, on both sides, is owned by the college; there are no private residences.

Teresa Reeser, 636 Western, said that Garden Street was previously closed because the City no longer wanted to maintain the floodway; the residents in the area had requested that it be kept open. She said, as far as the alley goes, they have a hard time getting out of their neighborhood because of Grove Avenue. She said that the intersection at Willow and Sheldon is not even a full roadway, and they cannot make a complete turn. She said that she talked with someone in the City's Engineering Department when she was told that would be their way out, and he did call and say it is a very dangerous intersection and he would see what they could do. She said that the College has three parking lots. She said that her neighborhood is full of elderly people who are scared to cross Grove and they use the alley to get out.

Mr. Nietupski showed the location of the street and alley and said he had driven both directions and have navigated fine. Mayor Wilson asked why the alley would be safer than a road. Ms. Reeser replied that they cannot turn on the road. She said that people take Sheldon as a shortcut to miss all of the lights on Grove and they have counted at least 150 cars using that within a three-hour period. She said that she personally counted 73

cars in a 40-minute period on her road. She does not think she should have to go 2 ½ blocks to catch the light.

Jean Phillips, 1001 Norris Road, which she said is beyond the area being discussed. She said that she has been in the City for many years and the reason the City closed Garden Street was that it was in the flood area and when the creek runs, which runs through her parcel as well, it floods in a low spot. She said that years ago they had a low-water crossing which was documented by a newspaper front page celebration. She said that she is surprised to hear that anyone from the public requested that Garden be closed because at that time they were fighting to keep it open.

She said that the whole area is an invasion of the College property into the neighborhood, bit by bit. She said that they have tried to be friendly with the College and they don't question the students when they're exercising and walking on their streets. She said that they would prefer to have it stay the way it is and not have it get worse.

Howard Mechanic, 309 Bloom Place, said that previous mention had been made of the College's parking lots and asked if those would continue to be used. Mr. Netupski said that the City would review any improvements associated with the alley before approval was given for emergency services to access.

Steven Coury, 1165 Western Ridge Road, Executive Vice President for Prescott College, said that it was the College's intent to close off the alleyway to drive-through traffic, including interior parking, the entire section of the alleyway along the College's property boundaries. He said that the only other property owner between Sheldon and Western is the credit union and they are not asking for abandonment of that section, and have been very supportive of the request.

Mr. Coury said that they will provide emergency vehicle access and City and utility vehicles. They will also landscape the interior portion to encourage safe pedestrian travel, and the parking area will become landscaped as well. He said that the College has 1,000 students, with 500 of them on campus every day. Another 500 are there for extended weeks throughout the year, along with just under 200 employees. Within that high density urban space there is a lot of activity. He said that when the numbers were smaller and there was less activity, it was not such a problem, but today the activity is significant and that is the nature of the request.

Councilwoman Suttles asked how they will close the area down to traffic but still allow emergency access. Mr. Coury said that they have had

several conversations with Fire and Police, and that is yet to be determined.

Councilwoman Lopas asked if they were just getting rid of the parking, or if it was being shuffled elsewhere. Mr. Coury said that they have been working to acquire additional property for parking; one parcel was the one behind the DES building they recently acquired. He said that they also have a long-term lease on what used to be the Stanley Lumber Facility on the far end of Garden and that is becoming a parking area.

Councilman Roecker asked Mr. Coury his thoughts on the difficulty of turning at the intersection of Willow. Mr. Coury said that he is doubly concerned with access on Grove. They have a long-term residency on old Campbell and even with the controlled intersection it can be a hazard. He said that the streets, however, do not create a delay in travel. He said that he is familiar with that corner and has traveled around it; it is safer than the alternative.

Councilman Lamerson asked if the street was given to the College when it was closed. Mr. Nietupski said that it was not; it is still the property of the City.

Steve Reeser, 636 Western, said that his concern is with access. He said that the Willow and Sheldon intersection is bad, especially when they meet another vehicle. He said that trying to get across Grove is horrible because of the parallel parking on either side of Grove and the bushes that have grown to where they can't see over them.

He said that Garden Street was closed by the City for Prescott College to use in their riparian area. He said that it is terraced and they can't get through unless they walk. There have been other things built in that easement prior to that and they should all be looked at. He said that it was a viable access to the neighborhood.

Councilman Roecker asked if staff could deal with some of the issues as far as safety was concerned, to accommodate both concerns. Mr. Nietupski said that before the next meeting staff will take a closer look at the issues raised regarding two-way traffic at Sheldon/Willow to see what mitigation could be provided. Mayor Wilson suggested that they include Ian, Mr. Coury and the neighborhood to find some joint resolution.

Rita Smith, 794 Norris, said that she would like the Council to go up the "T" in the road and drive back going from south to north to see how dangerous the road is. She said that if that is the road that everyone should use, they will have a big mess.

Councilwoman Suttles said that Mr. Norwood is scheduling a tour for the Council to visit the neighborhood.

Steve Blair, 1802 Northside, said that he sat on the Council and heard how the neighbors did not want streets closed. He said that every time the City makes a decision to close a road it impedes traffic. Garden should have never been closed. It was owned by the taxpayers and had been barricaded by Prescott College. He said that a traffic impact study should be done before closing down another access point. He said that he appreciates Prescott College and he helped secure the DES Building, but they do not have designated parking for their outreach center, and from what he heard they are removing more parking. He suggested that the City Planning Department do a full analysis of parking that is required.

- H. Award of bid to Fann Contracting, Inc. for the North Prescott Regional Force Main Replacement Project, along State Highway 89 from Lillian Lane to Willow Creek, in an amount not to exceed \$4,081,000.00.

Councilman Bell declared a conflict of interest. Mr. Nietupski said that this item is to award a bid and contract for construction services required to provide sewer improvements along the segment of State Highway 89, from Lillian Lane to Willow Creek. He said that the City went out to bid, and received bids from six firms, with Fann Contracting submitting the lowest, responsive, responsible bid.

Mr. Nietupski said that the recommended contract amount is the contract bid amount of \$3,886,407.61 plus 5% (\$194,592.39) for a total not to exceed amount of \$4,081,000. City Manager approval would be required to exceed the bid amount based on appropriate justification. City Council approval would be required above the total not to exceed amount of \$4,081,000.

Councilwoman Suttles asked if it was a simple replacement, and if they would be using the same ditch. Mr. Nietupski said that it will be a larger line and will need to be excavated deeper. He said that the pipe materials being installed are higher quality so this won't be a future reoccurrence.

Mayor Wilson asked how they will deal with sewage flow while they are replacing the line. Mike Fann said that the contract calls for a pump around of the existing sewer flow while they install the new line.

Councilman Lamerson asked why there is a difference between the contractor's bid and the engineer's estimate. Mr. Nietupski said that the market is volatile. The engineers have to take into consideration the cost of fuels, materials, labor, etc., and no one knows those costs better than the contractor. He said that the engineer does not attempt to determine

what the cost will be; the engineer was conservative on this project. He said that there is a broad distribution of cost from \$3.8 million to \$5.5 million. Everyone looked at the project differently.

Mayor Wilson noted that two years ago they were having a hard time getting a bid because it was going so crazy; now they are getting multiple bids and they are coming in under the engineer's estimate.

- I. Adoption of Ordinance No. 4672-0915 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of real properties, easements and improvements belonging to Douglas Heffner, Loren J. Ridley, James S. and Lucy Greeneich, and the acquisition of certain rights-of-way, drainage easements and temporary construction easements therefor for the widening of Williamson Valley Road, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchases.

Mr. Nietupski said that this ordinance will authorize the acquisition of various rights-of-way, drainage easements and temporary construction easements necessary for the Williamson Valley Road Improvement project.

- J. Approval of Amendment One to City Contract #08-207 with Saguaro GeoServices, Inc., for professional engineering services for Lowe's retaining wall design review in the amount of \$22,206.80 (reimbursed by Lowe's).

Mr. Nietupski said that this item is to amend the City contract with Saguaro Geoservices, Inc. for Lowe's Wall Repair Analysis to provide compensation for additional design review required for a soldier pile wall with tie-back reinforcements to remediate the Lowe's wall failure. He said that during the past several months Lowe's has evaluated three separate remedial designs: a tie-back retaining wall, a soil nail retaining wall and a soil buttress concept. Geoservices, Inc. has provided detailed analysis and comments on all three concepts on behalf of the City. He said that Lowe's has submitted a letter to the City committing to reimburse the City for the total contract amount of \$40,826.80. To date, the City has paid Saguaro Geoservices, Inc. \$18,620 and invoiced Lowe's for reimbursement of that expenditure.

Councilman Roecker asked if the City was loaning Lowe's \$22,000. Mr. Nietupski said that the City is providing independent review of the design proposals of Lowe's. It was Lowe's failure and the City is not going to be burdened with the cost, so Lowe's has agreed to reimburse the City for their review expenses. He said that the City pays for the services directly so there is no "fox in the hen house."

Councilman Roecker said that with the way that Lowe's has acted through the whole issue he would suggest that they give the City the money first. He said that they did a lot of harm to the community and he doesn't want to be waiting on them. Councilman Bell said that they should not make the payment to the engineers until Lowe's has paid the City.

Councilwoman Suttles said that she is seeing it from a different direction; that it is great to see Lowe's get off the dime. She asked if they would be going through this process continually until the wall is up. Mr. Nietupski said that he hoped not. He said that the City could request that Lowe's make the payment to the City in advance of the City proceeding.

Mayor Wilson said that it is a separation of control. He is okay with moving forward, but if the Council prefers to have the payment in hand before the City pays for the services, he would support that as well.

Mr. Nietupski said that Lowe's does have an engineer doing the design and an independent engineer doing the review. This is a third engineer reviewing the plans to ensure the City is getting an appropriate design.

Council agreed to keep this item off the Consent Agenda and contact Lowe's for payment prior to paying for the services.

- K. Approval of a professional services agreement with J2 Engineering and Environmental Design for engineering services to update the FEMA flood plain determination of Granite Creek in an amount not to exceed \$92,935.00 (reimbursed by Yavapai County Flood Control District).

Mr. Nietupski said that this item was to approve a professional services agreement with J2 Engineering and Environmental Design, LLC for the engineering analysis, preparation and submittal of an updated FEMA floodplain determination for all of Granite Creek with the City. He said that it will also include updating the 1996 City of Prescott Area Drainage Master Plan Hydrologic Modeling Report which will provide storm flow analysis for all named creeks with the City limits.

Councilman Lamerson asked if Prescott Creeks has had any collaboration on the project. Mr. Nietupski said that they have not; it is purely about delineation of the floodplain. Councilman Lamerson asked if Prescott Creeks was involved in any way. After additional discussion, Councilman Lamerson asked that the item be pulled from the Consent Agenda.

- L. Water and Sewer Development Fees:
  - 1. Adoption of Water and Wastewater Capital Improvement Plans.
  - 2. Adoption of Ordinance No. 4665-0908 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title II, Chapter 2-1 and Title III, Chapter 3-14, of the Prescott City Code, regarding the imposition of water and sewer development fees.

Deputy City Manager Craig McConnell said that this item was last considered on August 26, when the subject was rescheduled to today's meeting to allow additional time for dialogue with construction industry representatives. He said that the City engaged Economists.com, a rate and impact fee expert, to look at the rates/impact fees and to do that they had several objectives: 1) assure a stable financial footing for water and sewer enterprises, which includes rates (existing) and monies generated from impact fees or other financial tools; 2) continue quality infrastructure to the City's customers; and 3) achieve the Council's goal for a first-class utility system.

He said that Mr. Jackson has pointed out before that the cost of operating and maintaining systems are rising. In May, water and sewer rates were adjusted and are now in effect supporting both rising costs and rehabilitation work. Part of the work has been accomplished which was a fundamental purpose. He said that raising rates/fees is a difficult proposition; the City is sensitive to the concept of raising rates. He said that the City's ratepayers are making their contribution to the cost of maintaining those systems, and this item is the second component.

He said that if the City is going to have a policy of encouraging reasonable growth, they need to be prepared with infrastructure. In order to accomplish that it requires funding from some source or financing tool. He then reviewed the legal definition of impact fees.

He said that the process sounds simple, but it requires a 250-page report and an expert that knows how to do these things because it all has to fit together. A ten-year financial plan is the basis for this report, but it also looks at projections well into the future to make sure that things will work as well in the future years.

Mr. McConnell said that if impact fees are reduced, the funding is reduced for new infrastructure, so the implication is that projects have to be deferred or deleted. There is a relationship between the two. He said that the packet information also included some numbers for building activity and also information on legitimate projects. Despite the economy, over

the next few years there are projects that look like they will go to construction. Many of them are about multi-family residential development.

He said that in the Council memo, some alternatives were expressed on the CIP which are being proposed. The Council could adopt the plans and fees to become effective January 11, 2009; the Council could adopt reduced fees; the Council could adopt the fees, but defer implementation of the fees, or they could take no action. He said that those are four alternatives and combinations; there are also other alternatives which could include looking at the financing tools themselves. The City's mechanism for providing infrastructure is currently impact fees. That is the way the Economists.com report was created; it assumed that the City would continue with its present financing method. That does not mean that there are not other tools, such as construction sales tax, but the City's mechanism today has been impact fees.

Mr. McConnell said that his last point is that there has been some discussion of the study, which has been presented to the Council and is available on the website, reviewed by various parties. Even if the Council chooses another alternative, that does not mean that the study is invalid or has not been a productive effort. The reasons are 1) the study had two components – rates and impact fees. On the basis of the study, the Council adopted the new rates. 2) The sewer system has not been looked at for decades. The needs for new capacity and rehab are substantial and the sewer model has been completed that identify those needs. Those results were input into this study and a different basis for the sewer rates was provided, and they now have the costs of what their capital needs are for sewer, which they never had before. 3) This study has provided an opportunity for the City to look at its water resource development fee, and how the City prices water.

Councilman Bell asked if it had not been discussed at one time that the fees could be due at time of Certificate of Occupancy rather than at time of permit, which would keep the contractors from having to come up with the funds in the beginning. Mr. McConnell said there is some flexibility in the Statutes with deferring payment of the fees. Presently the City collects at time of building permit, but it could be deferred. His recollection is that the deferral is only available through a Development Agreement. Mayor Wilson said that Mr. Spitzer discussed that when they talked about the future phases of his development, and it was required through a Development Agreement.

Councilman Bell said that he has looked at the issue over and over and knows they need the money to do the capital projects. Considering the challenging economic times, he would come down on Option 3 as best, to

delay the imposition of the fees. He said that they could adopt the fees, but delay implementation to July 11, 2009 to give them a chance to recover.

Councilwoman Suttles said that they have talked about this many times. The contractors wanted more time to delve into this and find other types of funding. They have always look at impact fees to take care of growth and there are other options available; she believes they need to try to work through this with both groups and come up with something. She then referred to Attachment A of the packet.

Mr. McConnell said that Attachment A is a summary of capital projects. It is not that they can't be changed, but if the City is going to accomplish that package of projects in the time frames, and that total amount of money consists of two components, as required by law, the first is the rehab needs to fix existing deficiencies, that cannot be recovered by impact fees. The new growth needs are covered by impact fees and the two components make up the program.

Councilwoman Suttles said that if they do not get into some funding, then they reduce funding to a lot of different projects they have. Mr. McConnell said that one other point is that what is not in the CIP are specific projects with the annexation areas. They have major annexations coming in with State Land properties, Cavan, Deep Well Ranch and the CIP costs do not include the infrastructure needed within those lands because they do not have the land use established for them. He said that a lot of that infrastructure cost is the responsibility of the contractor, but there is still responsibility of the City.

Councilwoman Suttles said that she would like to see what others have to say, but she thinks the study stands on its own.

Councilman Lamerson thanked Mr. Jackson for the report, and said he thought it was very good, the information was accurate, and he did exactly what was asked of him by the City. He said that there may be other areas which they could be looking at, but he feels that growth should pay for growth. It is not only law, it is the charter of the City of Prescott.

Councilman Roecker asked why they could not delve into the other hybrid solutions. Mr. McConnell said that it depends on how they define "hybrid." There are alternatives, different variations on impact fees per se, but it would not be their recommendation that the Council attempt to create hybrids at this point of impact fees without a substantial and extensive discussion of that. If there are pros and cons for impact fees, there are also pros and cons for the other types as well.

Mr. Jackson of Economists.com thanked the Council for the opportunity to speak, noting that it was his fifth presentation to Council regarding his study. He then gave a PowerPoint presentation which addressed the following items:

- ▶ What is an Impact Fee?
- ▶ Why are Impact Fees Increasing?
- ▶ Overview of 2008 Rate/Impact Fee Study
- ▶ Impact Fee Implementation Process
- ▶ Water and Wastewater Impact Fees
- ▶ Water and Wastewater Impact Fees – 5/8" Residential Connection

Mr. Jackson noted that this showed a 18.9% increase in the rates; however that increase is in line with what they have asked the current water and wastewater users to pay.

- ▶ Comparison of cost increases
- ▶ 45 Day Review Process – Background
- ▶ Rate and Impact Fee Study – Questions Addressed
- ▶ Staff and Project Team Recommendation
- ▶ Presentation Summary

Councilman Bell asked if the 75 days for implementation after it is adopted, is the minimum time frame allowed. Mr. Jackson replied that was correct.

Councilwoman Suttles said that Page 6 states that impact fees will be reviewed every two years, and asked if they had done that. Mr. Jackson said that they have not done anything in almost 20 years on wastewater fees. Councilwoman Suttles asked if that review is a full-blown study or if it is something done in house. Mr. Jackson said that there are cities and clients that do their updates on their own. He said that it is an advantage and saves money, but oftentimes they have a staff that is already burdened with a lot of responsibility, and the outside person is like a temporary employee. In addition, he said, it also gives Council and policy setters the advantage of being able to see what other communities are doing. He said that he would recommend a full-blown study, but if they

were chosen again, the fees would not be near as high because the models have been built; there is a lot of work that would not be required the second time.

Councilman Bell asked Mr. Norwood if he would anticipate a flood of people coming in to beat the increases if they had a six-month delay in implementation. Mr. Norwood said that he does not think they would see a huge surge.

Mayor Wilson said that if they entertain that, he would like to see a report from Mr. McConnell about what projects would be deferred for six months. Mr. Jackson said that a big key in any delay is if they anticipate any large meters coming on line.

Councilman Lamerson said that he has maintained all along that solely relying on impact fees is not right, but if that is the policy they have, he does not think that delaying it is an advantage. He said that he is a little disappointed that someone has not grasped that there are other alternatives, but he would not support delaying it.

Jack Helman, 849 Flying U Court, complimented the editorial in the newspaper, and also the two presenters, noting that he found it very educational. He asked Mr. McConnell if he or anyone on his staff found anything in the Economists.com report questionable. Mr. McConnell said that he, his staff, finance, the Manager's office, analysts, etc. have been involved in the study process and reviewed the documents. They used the 45-day period to consider any questions that have been raised, and it is their conclusion that the study is complete, competent and legally sufficient to the requirements of ARS for studies of this type.

Mr. Helman said that he does not understand why after paying \$137,000 for a report, and having it reviewed by City staff and Council members, they are still flailing around. He said that as a user of the facilities, he does not recall any opportunity for him to contest or argue the rate increases he just had. Mayor Wilson said that there had been public hearings held on the rate increases.

Steve Blair, 1802 Northside, said that he was concerned about the slide showing that the use of fixture counts for determining rates was going away. He said that a year ago he offered to pay his impact fees and was told he was not required to pay one. He said that they had a pipebursting project done a few years ago to oversize the line on Ruth. There was no new construction on the line, yet they are holding people responsible for those based on impact fees. He would like to provide an opportunity to get all of these done through a property bond, rather than sending all of their commercial development to Prescott Valley or Chino Valley. He said that

the contractor that builds new pipelines in a development has that expect, then they are told to pay again for usage on the line. He calls that double taxation.

Mr. Blair said that there was no impact fee in the community until 1994. He asked how they would get all of the money from the homeowners who built before that time. Mayor Wilson said that he preferred to walk forward rather than focus on water under the bridge.

Mr. McConnell said that there was a sewer line in Ruth Street which needed to be replaced and they used the pipebursting technique. He said that if the sewer line had been replaced at its existing diameter, then the sewer rate payers would be responsible. If it was oversized to have additional capacity, then that component, and only that component, could be charged to impact fees.

Councilman Blair said that he finds it concerning to him that a 2" commercial meter will increase 100% with this new fee schedule. He is concerned with what it does for commercial projects at the airport. He said that the Mayor had campaigned on stopping growth and this will do it. Mayor Wilson said that he was misstating him; he never said he would stop growth, just have controlled growth.

Councilman Roecker asked what Prescott Valley and Chino Valley have done in the way of impact fees. Mr. Jackson said that Flagstaff may have held off on their fees; Chino Valley has not.

Mr. McConnell said that whether they are called an impact fee or capacity charge, they have had some type of fee since 1980 in the City; at that time it was called a buy-in charge.

Councilman Roecker asked Brad Fain what the status of the impact fees in Prescott Valley was on commercial development. Mr. Fain said that they have waived them for commercial development. Mr. McConnell said that was the source of litigation with the Homebuilders of Central Arizona.

Sandy Griffis, Yavapai County Contractors Association, 810 E. Sheldon, said that the YCCA had prepared a handout which was then distributed to the Council. She said that building for tomorrow is not going to be easy, and they all want to make Prescott an enterprising City with the right infrastructure program. She said that they know and agree that every community requires infrastructure to make it functional. The question is how best to meet the needs of Prescott.

Ms. Griffis said that the Council saddled the YCCA with the task of coming up with alternatives, but prior to that they felt it was important to get their

arms around Mr. Jackson's report. As they did that they discovered that there were data discrepancies in the report as compared to the City of Prescott's CIP. She said that there are errors in the report and no one has approached them to define what they are.

Mr. Jackson said that during the last 45 days they were asked numerous questions about the data in the report. It is a difficult report to understand; they have to understand the information they are looking at. Just because two numbers are not the same does not mean there is a discrepancy if they are not looking at the same numbers. He said that an example is that one table refers to customer accounts--the other is ERU's. One section of the CIP only includes nine years; another is ten years. He said that the job of an analyst is to look at the numbers and understand if they apply to impact fees or rates, and apply appropriate. He said that there are no discrepancies in the report.

Ms. Griffis said that there are discrepancies and she would love to meet with them to review. Based on the tools they were given, they worked extremely diligently. She said that she was not there to punch holes in Mr. Jackson's report, and she thanked him personally adding that she did learn a lot. She said that their real question is what the real numbers are. They did not see how the Council can make a decision without know what the real numbers are. They have to be on the same page.

She said that they are not against impact fees. They are not attempting to postpone or object, and they agree that growth should pay for growth. However, innovative alternatives can make a difference and the options and alternatives are seemingly endless. Their group came up with over 23 alternatives and several have been used successfully. She said that she does not know if any of them are the direction in which the Council wants to head, but they cannot make that decision until they know what the real numbers are.

She said that DPF&G came up with five alternatives that were geared to growth and they were asking that they be creative, innovative and that Council help them become engaged in a decision that will work. If it takes six months, they have intelligent people, Leslie, Mr. Danforth, nonprofits, and they all need to be a collective group and work together.

Mayor Wilson said that it was stated that contractors do not oppose impact fees and do not support a delay. He asked if she would support the Council passing the current impact fees as presented. Ms. Griffis said not today as there are issues with the fees and it needs more work. The issue is the inconsistencies in data.

Ms. Griffis said that an example is in her packet the total water fee capital improvement from the City, based on what Mr. McConnell gave her, numbers were \$27 million. The Economist.com report shows \$201 million. She was taking the total for years 2009 through 2018. Mr. Jackson said that he has not seen the information she was referring to, but he cannot possibly see how it could be true. The CIP is a massive plan of 200 projects and the City has not reduced it by 90%.

Mr. Jackson, referring to the slide of the presentation, for 2008 to 2017 the resource development fee and water system impact fees need to be added together, which comes out to \$230,000. He said that in one of the schedule in the study the water CIP is \$201 because it is for 2009 through 2017. If they included all ten years, they would be overcharging. He said that in 2008 all of the CIP projects were funded by a prior bond, so they would be double dipping.

Councilman Roecker said that the economy is in dire straights. He is desperately looking for a compromise. They do not want to kill growth entirely, but they do want it to pay for itself. He asked Ms. Griffis, after having the additional 45 days, if they were able to put a number on impact fees that their group would support.

Ms. Griffis said that they did not approach it from a new bottom line for impact fees. She said that the choices they are leaving the Council with are 1) the economy is slow, the timing is not good, and she asked why they cannot sit down as a group. Councilman Roecker said that they are not going to get on the “treadmill cycle”; they have to set a rate to move forward. Ms. Griffis said that they should then leave them like they are and look at other alternatives.

Mayor Wilson said that he believed the report was correct and they should pass the rates as proposed. They can then sit down and look at alternatives, but if they don't, they will never increase the rates.

Councilman Roecker said that the upside is that they review these fees every two years so this is not the end of the end.

Councilwoman Lopas thanked Ms. Griffis for her report, stating it was interesting reading. She said that in looking at the alternatives, a construction tax of 4%, based on a \$250,000 house would be a \$6,500 fee, while they are current proposing something much less than that.

Ms. Griffis said that it is a viable alternative. She said that in the Council packet there was a list of deferred infrastructure items, and they found it surprising that every one of the items was being deferred in future years. She asked why they would not defer something facing them right now.

Mr. McConnell said that it is a ten-year planning period. Projects they have in process now are constructed typically no earlier than the third year because of design and property acquisition. Mayor Wilson said that as soon as they start losing money, they are losing projects.

Dave Maurer, Executive Director of the Prescott Chamber of Commerce, said that after weeks of study they were still reasonably confused and felt it was complex so they employed an outside, neutral firm to review the Economist.com report. He said that the Council has their 26-page report which raises a series of questions. He said that if he was sitting in the Council's seat, he would want to know that everything lines up in the report.

Councilman Roecker asked if they passed what they have in front of them, but with the delay Councilman Bell suggested, if the law would allow them to reduce the rates without going through another study. Mr. McConnell said that the study identified the maximum rates that could be charged; the Council has the latitude to charge lower rates or make them effective at a different time.

Mayor Wilson asked Mr. McConnell for both his and Mr. Jackson's response to the report prepared by DPF&G. Mr. McConnell said that Mr. Jackson prepared a written response to their report, working over the weekend and it was given to the YCCA during the meeting. He believes that Mr. Jackson's response to the report is accurate. He understands that Mr. Jackson has a much more detailed response to each of the questions raised, but the bottom line is that staff is comfortable with Mr. Jackson's study and his response to the DPF&G report.

Mr. Jackson said that he did have a chance to review the report and they did raise issues, none of which had any credibility. The report has a lot of misstatements of fact and a lot of incorrect statements. The analysis was flawed. They did not find it to be credible. He said that they did not find any of their findings to merit any revisions at all in his study. They are fully confident and stand behind the accuracy of the Economist.com study.

Bill Matthews, 1806 Pony Soldier Road, past president of YCCA and currently serving on the board, said that he had a different perspective. They realize that impact fees are part of the culture in Prescott and always have been, regardless of what they were called. He said that in years past their director, Ethan Edwards, stood before the Council regarding impact fees and they all worked hard and came up with some good things. Things have changed. The Council cannot expect the revenue stated to be accurate in this time, with only 100 building starts this year. He said that everyone he has talked with has nothing on the

table. They are not going to raise the kind of money they need and they need to look at some reasonable impact fees and different methods of funding the infrastructure needs of the City. They need to get outside their box and look at a comprehensive funding approach. He said that they have been focused on impact fees and rate changes, when they need to be focused on how they will develop the old town and maintain the economic health of it.

He said that in a competitive nature, they need to look at the startling increases in commercial impact fees. Those are well over 100% and more. There are thousands of dollars in commercial impact fee increases, while Prescott Valley has suspended theirs. They need to look at an economic stimulus package for Prescott to encourage reasonable and sustainable growth, which is not occurring.

Howard Mechanic, 309 Bloom Place, said that he participated in some of the meetings held over the past 45 days, and he wanted to thank staff and the consultants. Many times the questions were given numerous time. He said that he appreciated Ms. Griffis saying that growth should pay for growth, but then Mr. Matthews stood up and suggested subsidizing commercial growth. He asked who is to subsidize it; it is a matter of fairness.

He said that Mr. Matthews has brought up the issue of slower growth and money not coming in. That is true when they have slower growth, but when they put in a new pipeline that has 500 lots, they will be paying for it over a longer period of time. He said that if they lower the impact fee, that will lower their income. If it is going to go slower they are going to have more interest, and if it takes longer, there will be more carrying costs, which means the impact fees should be higher per unit. The per unit cost will tend to go up when growth is lower.

He said that the agreement was to meet in October; in one year they will start it over again. If people have suggestions, that is the time to do it. The only thing he heard today is a construction tax and he does not understand the difference. He said that the contractors do not go to the utility companies and ask them to subsidize their costs. He said that they cannot solve the financial problems around the country. He said that the impact fees are about 5% of their fees; if they cut them out completely, it will not make that much difference.

Mr. Matthews said that Mr. Mechanic was right about commercial impact fees, but what they are talking about in commercial impact fees is jobs. They are talking about the health of the community. If they do not have jobs in the community they will not have the retail and the tax it generates to for staff, cities and growth. It is an interlocking problem.

Bill Kindig, 4866 Camanche Trail, said that when he spoke at the last meeting, he said all he has seen for the YCCa is delay, delay, and he forecasted that they would come back and ask for delay again. He said that Councilman Roecker was correct; he expected someone to come in and give a recommendation. That would have been a good starting point, but he has not seen it.

John Danforth, 2737 Lookover Circle, said that he hears about the enormous increase in the commercial impact fee, and asked if that meant that they have not been paying their full fee. Mr. Jackson said that was correct. One of the findings of the study is that the impact fees on the larger meters were undercharged; the 5/8" is still 85-90%, but the larger meters take a lot of capacity and the new fees would recover those costs.

- M. Notice of Public Hearing (October 28) and consideration of a liquor license application from Clay William Romo, applicant for Clay Romo, LLC, for a Series 07, Beer and Wine Bar, license for Lloyd's Liquors located at 1102 West Iron Springs Road.

Ms. Burke said that this and the next item (Item N) were notice of public hearings for liquor license applications for a Series 7 and Series 9 license at Lloyd's Liquors located at 1102 West Iron Springs. She said that the requests are needed because of change in ownership. She said that the property has been posted and the applicant has been asked to attend next week's public hearing.

- N. Notice of Public Hearing (October 28) and consideration of a liquor license application from Clay William Romo, applicant for Clay Romo, LLC, for a Series 09, Liquor Store, license for Lloyd's Liquors located at 1102 West Iron Springs Road.
- O. Approval of the Minutes of the Prescott City Council Combined Study Session/Regular Voting Meeting of October 14, 2008 and the Study Session of October 21, 2008.

- P. Selection of items to be placed on the Regular Voting Meeting Agenda of October 28, 2008.

Councilwoman Suttles said that the following items would be on the Consent Agenda: A, B, C, D, E, I, O. The remainder, F, G, H, J, K, L, M, N would be under the regular agenda.

**III. ADJOURNMENT**

There being no further business to be discussed at the Study Session of the Prescott City Council held on October 21, 2008, the meeting was adjourned.

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JACK D. WILSON, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk