

PRESCOTT CITY COUNCIL  
JOINT SPECIAL MEETING/STUDY SESSION  
TUESDAY, JUNE 2, 2009  
PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Joint Special Meeting/Study Session held on June 2, 2009 in the Council Chambers at 201 South Cortez Street, Prescott, Arizona

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Reverend Julia McKenna, Spiritual Architect

Reverend McKenna was not available; Jane Cheek with the First Congregational Church of Prescott gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Roecker

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

◆ **ROLL CALL:**

PRESENT:

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

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Norwood reminded everyone that the annual clean up was going on this month, and pick up was based on the day of the week that regular garbage is picked up. He suggested citizens view the City's website for additional information.

Mr. Norwood also reported that the City had submitted \$12 million in economic stimulus grant applications and received word that they will be receiving around \$6.1 million, for which they were pleased.

## **SPECIAL MEETING**

1. Approval of the Substantial Amendment to 2008 Annual Action Plan (CDBG-R Funding).

Ms. Hartmann said that last week the Council had held the public hearing on this matter, which was the eligibility to receive \$78,860 in Community Development Block Grant-Recovery (CDBG-R) funding from the US Department of Housing and HUD. The City is proposing to provide funding to Catholic Charities for transitional housing renovations and also assist the Meals on Wheels program.

**COUNCILMAN BELL MOVED TO APPROVE THE SUBSTANTIAL AMENDMENT TO 2008 ANNUAL ACTION PLAN; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.**

2. Adjournment.

The Special Meeting adjourned at 3:05 p.m.

## **STUDY SESSION**

### **I. PROCLAMATION**

- A. June 6-7, 2009 as *Father-Son Golf Tournament 50<sup>th</sup> Year Anniversary Weekend in Prescott*.

Councilman Luzius invited forward the couple that would be receiving the proclamation. Paul Parker, Golf Course Manager, went forward and noted that they were not able to be there. Councilman Luzius read the proclamation proclaiming June 6-7, 2009 as *Father-Son Golf Tournament 50<sup>th</sup> Year Anniversary Weekend in Prescott* and presented it to Mr. Parker.

Mr. Parker thanked the Mayor and Council, accepting the proclamation on behalf of the players over the last fifty years. He said that they would be displaying the proclamation so all can see how important this tournament is to the City.

### **II. DISCUSSION ITEMS**

- A. Award of bid to Cactus Asphalt, Inc., for the FY2010 Chip Seal and Various Pavement Repairs Project in an amount not to exceed \$870,633.60.

Tim Burkeen of Public Works said that this was the annual contract for applying rubberized chip seal on local streets, with the project limits generally located in the Ranch at Prescott subdivision and the Yavapai Hills subdivision. Additionally, unpaved streets that recently received a dust suppression membrane of recycled asphalt by City forces would receive an application of conventional chip seal to complete the membrane.

He said that competitive bids were opened on May 7 with the lowest responsive bid coming from Cactus Asphalt, Inc., and confirmation of that bid had been received. He said that the project would begin on July 6 with completion by August 1.

Mr. Norwood said that this was a key component of the one-cent program. He said that they had an engineer's estimate of \$1.2 million, so this came in about \$300,000 less than that.

Councilwoman Suttles said that she saw it was contingent upon approval of the capital improvements plan and asked if they were out of money for 2009. Mr. Norwood said it was just the way it falls within the cycle, with the fiscal year starting on July 1, and they roll over what is left in the 2009 budget.

Councilwoman Suttles asked how they determine what streets to be done. Mr. Burkeen said that the pavement management and maintenance program looks at all streets, but to maximize their efficiencies they look at an area. The Ranch and Yavapai Hills neighborhoods are predominantly low-quality rated roads and that is why they are hitting that area this year.

Councilman Luzius said that it was a good program and he was pleased to see they were continuing with it. He said that the roads in Yavapai Hills and the Ranch were in need of surfacing. He said that it was his understanding that they were also putting chip seal over a number of roads that were done by using the old asphalt that had been milled off projects, and reconstituting and using it as pavement. He said that this would seal and protect those millings and he wanted to say to the citizens that the department is doing a great job. The millings project is saving a lot of money and making citizens happy.

Mr. Burkeen said that most of the credit goes to Chad McDowell and the Field Operations Department.

Councilman Lamerson asked how many miles of chip sealing they were doing. Mr. Burkeen said that it equates to approximately 12 centerlane miles of rubberized chip seal and approximately 4.8 miles of conventional chip seal.

Councilman Lamerson asked how many years this product helps extend the life of the roads. Mr. Burkeen said that it all depends on the speed and volume, but there are some rules of thumb, with chip sealing extending it four to five useful years and seven to ten years for rubberized chip seal.

Councilman Lamerson said that not every road is Copper Basin and Iron Springs and asked what the average cost was to build one mile of road. Mr. Burkeen said that it was in excess of \$1 million. Councilman Lamerson said that this seemed like a prudent use of taxpayer's money.

- B. Adoption of Resolution No. 3963-0969 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting a Tentative Budget, adopting the estimated amounts required to meet the public expenses for the City of Prescott for the Fiscal Year 2009-10, authorizing and directing publication of statements and schedules of the Tentative Budget, together with Notice of Hearing on said Budget and Notice of Date of Final Adoption of said Budget, and Notice of Date of Establishment of the Expenditure Limitation, and Notice of the Date for Fixing a Tax Levy.

Mr. Woodfill presented a brief PowerPoint presentation on the tentative budget, noting that it will set the overall appropriation for the City and adoption of the resolution sets the time for the public hearing and after that the Council would consider the final budget.

#### ► RECONCILIATION

Councilwoman Suttles asked for a recap on the parking fee collection item. Ms. Horton said that there was an existing \$2 fee for Willow, Watson and Goldwater Lakes that is collected on the honor system. They estimate that only one of three cars stops to pay the fee. Revenue generated goes into the General Fund and for the past two years they collected \$65,000. This will allow them to install kiosks that give people a parking pass that they will put in the dash. There will be volunteer rangers that will have the ability to write tickets. Mr. Norwood said that they are not counting on tripling their revenues, but they are increasing their revenues some to offset the capital, until they get at least one year's history.

Councilman Bell asked how they arrived at the amount for the Elks Fire Sprinkler if the Construction Manager at Risk assessment has not taken

place yet. Mr. Fenech said that those figures were estimates given to them by the architect of record, Otwell & Associates. Councilman Bell said that the numbers could go down; he did not want the Construction Manager at Risk to feel they had latitude and did not have to be stringent with his figures. Mr. Fenech said they were having a meeting tomorrow and they will discuss those types of issues.

Councilwoman Suttles asked how the Sharlot Hall funding and Prescott Creeks match came about from the bed tax. Mr. Norwood said that there are three different events at the museum that bring in a lot of tourists, and their fund continues to be cut so they requested assistance with those three events. The Prescott Creeks amount had been cut to \$6,250 from \$12,500 but Council directed staff to add that amount back in. He said that many of their projects with Watson Woods and trails, etc. are all tourist draws.

Councilman Lamerson asked if the fee collections at the parks would go into an enterprise fund. Mr. Norwood replied that they would not; those go into the General Fund.

Councilman Roecker asked if they knew how much Prescott Creeks solicits from the community. Mr. Woodfill said that he did not know, but they could provide that information next week.

▶ OTHER ADDITIONS/DELETIONS

Councilman Lamerson said that he understood the carryover, but asked Mr. Woodfill to clarify the roads/open space fund. He said that it was his understanding that they do not have to spend the funds for open space acquisition and that when they place these items in the budget, they still have to come back before the Council; this was just their appropriation. Mr. Woodfill said that was correct

Councilman Lamerson asked if it was permitted for an individual Council member to vote no on the budget if there was an item they did not agree with. Mr. Woodfill said that was okay; the majority of Council sets policy.

Councilman Luzius asked why they were spending \$19,000 to relocate the fuel tank. Mr. Willis said that it was for use of the automobiles, trucks, etc. and when they sold the fuel farm to Legend, this was part of it. They had not included removing that tank so that City vehicles, such as from the airport, golf course, etc. can fuel at the airport.

▶ SCHEDULE B

Mr. Woodfill said that the main point of the other financial sources is there is \$39 million projected in the Enterprise Fund as well as \$20.5 million in the Streets Fund needed for capital budgets. He said those are debt issues contemplated in this budget. They will use whatever means of financing is the most cost-effective. He said that they have had a great deal of luck with WIFA and water/wastewater and \$20.5 would be looked at when that project gets started and after the election in September.

▶ SCHEDULE E

▶ TOTAL BUDGET \$180,818,693

▶ REMAINING STEPS

Councilman Lamerson said that he did not want this item on the Consent Agenda.

- C. Approval to complete a grant application to the Governor's Office of Highway Safety seeking 402 Federal Grant Funds in the amount of \$40,505.00 to be used for officer overtime, employee related expenses and purchase of equipment necessary to support highway safety and education efforts.

Police Chief Randy Oaks said that the Police Department continues to try and return tax dollars to the City and enhance their public safety capabilities. He said they had three items on the agenda; Item C was a grant to be used for officer overtime, expenses and equipment. He said that due to the tight timeframe the grant application had to be submitted by May 29 and they could not get it on the agenda prior to that time.

Councilman Lamerson said that he would presume that if they did not think it was in the best interest of public safety they would not apply for grants like this and things would be done with or without the grant. He said that looking at the three grants, it could save the General Fund \$80,000, freeing up that money for other areas in the City. Chief Oaks said that was correct; they would conduct business as usual but they could not do it to the degree to which the grants allow them.

- D. Approval to complete a grant application to the Governor's Office of Highway Safety seeking 410 Federal Grant Funds in the amount of

\$60,000.00 to be used for continued operation of the Tri-City DUI Task Force during the period of October 2009 through September 2010.

Chief Oaks said that this was an annual event that is brought to Council each year. He said that it has also been submitted due to the timeline.

Councilwoman Suttles asked where everyone else comes in with this being a tri-city DUI task force. Chief Oaks said that it is really more of a Yavapai County Task Force and all of those agencies provide manpower. He said that all of the \$60,000 comes into Prescott because they administer the grant for the entire county.

- E. Approval to complete a grant application to the U.S. Department of Justice, Bureau of Justice Assistance (BJA), for grant funds in the amount of \$19,525.00 to purchase supplies and equipment necessary to improve and enhance law enforcement programs.

Chief Oaks said that they were notified last week that they were awarded this grant, but because of the short timeline and requirement that it has to be made public, they have not defined what this would be spent on, except to say that at the direction of the City Manager they have gone to the capital list of projects/supplies that were eliminated from this and other budget years and priorities those supplies that they could not afford. That is where the \$19,525 would be applied.

- F. Approval of the Site Plan for The Bradshaws Phase V, a Planned Area Development on a ±24,710 sq. ft. parcel located west of Bradshaw Drive and north of the Peridot, Owner: Wescap Investments, S109-001.

Mr. Guice said that Items F and G were related. The first item is the amended site plan request. The development had been approved in four phases with 172 units. The developer, Bill Spreitzer, has requested that a Phase 5 be added to the southeast corner, proposing to have eight one-bedroom apartments, but the overall number of units would not be exceeded. He was proposing to reduce the height of two buildings closest to the property owners to the east from three stories to two.

He said that they held an area meeting and two residents came from the neighborhood. He said that they expressed concerns about the finished floor elevation but they showed that the new building of one-bedroom units has a finished roof line of 5,494.5 feet and the nearest resident has a 5,493.89 feet finished floor so it would not impede their views.

- G. Adoption of Resolution No. 3964-0970 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Amended Development Agreement with

Wescap Investments, LLC, for “Amendment No. One to the Development Agreement McDonald/Bradshaw Drive (City Contract No. 96-150)”, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above. (The Bradshaws)

Mr. Guice said that Item G included a copy of a letter from the developer requesting to amend the development agreement to include a provision giving them the ability to pay for impact fees for phases 2 through 5 at the time of certificate of occupancy.

Mayor Wilson asked where the parking for the new addition would be. Mr. Guice said that the parking is shown. He added that they are in the midst of processing a code amendment that would reduce the number of parking spaces required, eliminating the parking requirement for the third bedroom. He said that it was received favorably by the UDC and a public hearing was scheduled for June 11.

Councilman Bell asked, if they approved the impact fees to be paid at time of certificate of occupancy, if it would be the impact fees in place at that point in time. Mr. Guice said that they are usually figured at the time of building permit, but that could be stipulated if it was the Council’s desire.

Councilwoman Suttles said that she did not think they had ever had impact fees paid at the end of a project. Mr. Guice said that the statutes were amended approximately two years ago to set this in place to allow councils the ability to collect at the backend. He said that this would be the first time that the City had formally done it. He said that this could be perceived as another incentive for enticing these types of developments to come to Prescott.

Councilwoman Suttles asked if they would be setting some type of precedent for another project. Mr. Guice said that from staff’s perspective, this could be used as a tool to incentivize these projects. He said that other similar developments could be considered through a development agreement for the same opportunity.

Councilwoman Suttles said that they are asking to pay the fees at the end, and she asked Mr. Spreitzer if they were going to have more money at the end. Mr. Spreitzer, 4745 N. 7<sup>th</sup> Street, Phoenix, said that about two years ago the statutes were changed, and that came out of discussions that perhaps involved the Governor’s Task Force of Affordable Housing. He said that they are finding that the type of financing they have available for affordable housing today is different than six months ago. The TCAP (tax credit assistance program) enacted by the President has restrictions on their funds and can only be used for direct construction costs, not for soft costs such as impact fees or land. By deferral, it is easier to package

the financing and take it to the market place. There have been other communities in Arizona, including Prescott Valley and Flagstaff, that have both been receptive and both have adopted resolutions to enable them to defer impact fees. He said that no one is using the facility and the community is not providing benefits to residents until they are occupying the building.

Councilman Lamerson said that capacity is an important issue to address. The thing that concerns him with water and sewer consumption is that when they have projects coming into the City, and they are deferring impact fees, he is concerned that they have obligated their capacity with no mechanism in place to capture money necessary to pay for it, especially in light of the State's possible sweeping of the city's impact fee funds. He asked Mr. Spreitzer if some of the monies provided by the federal assistance were available for impact fees.

Mr. Spreitzer said that he had addressed a certain piece, the TCAP, and the most important ingredients are the tax credits. The tax credits generated are sold on the open market through investment banking firms and there are no conditions on the use of the capital generated from those funds. Those funds are also back-end loaded. On the front end they have construction financing from Chase. He said that they have the construction loan first, TCAP during construction and on the backend they will have the tax credit and equity. All of the pieces are put together and it is a matter of timing.

Mr. Spreitzer said that the tax credit dollars is an IRS program through Section 42, and is an incentive to the private marketplace to generate capital for affordable housing projects, and it can be used for payment of impact fees and resource fees. Councilman Lamerson thanked him for his candor, but said that with the threat from the state of taking the City's impact fees, he would think it best to get the impact fees up front.

Mayor Wilson said that they do not know what the State is going to do; no one knows. Councilman Roecker asked Mr. Kidd if they could write the development agreement to protect the City that if the state does sweep the fund, they can be assured that they will get paid the fees no matter what they are called.

Mr. Kidd said that those are good questions. He said that normally laws do not apply retroactively, but he did not have an answer. He said that without knowing what the State was going to do the safest way to do it would be to get the money in hand, then no one else could grab onto it. He said that there may be some other ways, escrow the funds, etc., although that probably does not conform with what they are trying to do.

Mayor Wilson said that in looking at the bigger picture, in terms of what the Legislature is thinking of doing with a moratorium, if they did cut off all impact fee collections, it would shut down infrastructure development. He did not see how it could pass.

Councilman Luzius said that he could understand why they would prefer to delay payment of the fees. He asked if there was a way to capture the TCAP fees so they would be assured to receive them. Also, he said that if they pull the permit today and the fees are one rate, and in July they are raised to another rate, he would want to make sure the City collects the prevailing rate of the impact fees.

Councilman Luzius said that in looking to the north at Pinnacle, they had a developer that pulled out their stakes and the City put in considerable amounts of infrastructure and now they are left holding the bag. He wants to make sure the City is protected from that happening.

Mr. Spreitzer said that they have a development budget on the front end of the transactions, including the impact fees, so they need to know what the fees are that day and they cannot change. If the Council is of the mindset that there would be a prevailing rate, they cannot deal with that and would have to pay them up front. They are asking for deferral of several hundred thousand dollars of impact fees and in today's market is a big deal. They have an investment on the second phase and the ultimate investor is JP Morgan Chase Bank. There is a huge investment that would be committed; they are talking about \$8 million in equity. JP Morgan Chase is not going to walk away from a couple hundred thousand dollars in impact fees. As a development they have to guarantee the entire development. The budget for the project is about \$10 million and they guarantee with their corporate guarantee and he guarantees personally. He said that the assurance that the Council is the players involved—JP Morgan Chase bank, the Arizona Department of Housing, the TCAP funds coming into the project exceed \$2 million and those are overseen by the Arizona Department of Housing. He said that it is a sophisticated, seasoned group of people putting it together.

Mayor Wilson said that he was impressed that Mr. Spreitzer's name was shown as a personal liability. He thinks the entire Council has taken the position that they need affordable housing. He said this is a reasonable incentive to go after it and he celebrates what is going on. He said that he attended the Open House and they have done a magnificent job so far. He said that they should do what they can to support affordable housing.

Councilwoman Suttles said that she would like to pull the item from the Consent Agenda. She said that she did not see what fees they were

supposed to be deterring. She thought the project was great, but was trying to protect the City on where they were going with it.

Councilwoman Lopas said that one thing that has not been discussed is the interest paid on the impact fees. To keep affordable housing projects affordable she understood why they would want to keep them to the end and it makes sense to her. She has talked to Habitat for Humanity about this and it has been done in a lot of communities. She said that she would like to see more projects like this.

Councilman Lamerson said that in no way was he trying to infer that he did not support the project, but when they absorb the capacity they diminish that capacity and they cannot get it back.

Leslie Hoy, 1880 Coyote Road, asked the amount of the impact fees being proposed to be deferred. Mr. Guice said that it was around \$300,000. He said that they were talking about the remaining four phases and they could have an answer next week, but that was his best guess.

Ms. Hoy said that the buildings would be empty and not used services until they moved in, and asked if there would be any other services provided before the fees were paid. Mr. Guice said no; there is no impact until someone is living there, but the capacity has to be there. He said that the impact is created when the meter is set.

Ms. Hoy said that if there is a water main to the building there is an expenditure paid before someone moves in. Mr. Guice said that those expenses would be borne by the developer.

Ms. Hoy said that it seems fair to delay the cost, but her concern is if those building something not for affordable housing could make the case that they should be able to have theirs delayed. Mayor Wilson said that this has always been presented for affordable housing and as a Council they would not be entertaining it for anyone except affordable housing.

Councilman Roecker noted that no neighbors had come to comment on the issue.

- H. Approval of a real Estate Purchase Agreement with Joseph & Barbara Gardner, for 1.52 acres of real property on Skyline Drive near Thumb Butte for open space purposes with an appraised value of \$228,000.00;

with a cost to the City of \$180,000.00 and \$48,000.00 donated by the Gardners.

Ms. Horton reviewed the property being recommended for purchase as open space on Skyline Drive. She said that the appraised value was \$228,000 and the Gardners were donating \$48,000, costing the City \$180,000. She said that the money was available in the Open Space fund.

Councilwoman Suttles said that she was under the assumption that they owned all of that property. She asked how this piece was not part of what they originally purchased.

Ms. Horton said that this was the recommendation from the Open Space Acquisition Committee.

Councilwoman Lopas said that the reason they are recommending purchasing is because it complete that open space area. The purpose of the open space on that part of the hill is because that is a viewshed for the entire City of Prescott, right in front of Thumb Butte. If it was developed, it would negate the point of preserving the rest of the hill.

Councilwoman Suttles asked what was being proposed for the property, and if they were looking at trails. Ms. Horton said that potentially they could, although it was quite steep in that area. Councilwoman Lopas said that sometimes they have to put it together with a long-term vision.

Councilwoman Suttles said that she would like it pulled from the Consent Agenda.

Councilman Lamerson said that while he appreciated the generosity of the Gardners, at this point in time in the City's history with budget constraints, he would prefer to spend the money from the Streets and Open Space Fund for streets.

Mayor Wilson asked what the balance was of the Open Space Fund. Mr. Woodfill said that while it is a Streets and Open Space Fund, they have been working at the \$40.7 million that Council approved. He said that to date, before this purchase they have spent around \$15 million on open space; they have projected \$25.7 to finish up the open space from now until the end of the tax.

He said that \$2.3 million of this will be carried over into 2010, making this number \$3.362 million, which could be used for streets.

Councilman Roecker said that he agreed with Councilman Lamerson in that he appreciated the generosity of the Gardners but he does not think

that not purchasing this is going to harm the integrity of the open space in that area.

Councilman Luzius said that he was inclined to agree with Councilwoman Lopas. It is one key they need to finish off the open space piece in that area and this would keep it from being developed and being destructive to the rest of the parcel.

Mayor Wilson asked staff to bring a picture of the viewscape to next week's meeting. Councilwoman Suttles said that she would like to see the possible trail.

- I. Approval to continue discussions with ADOT to amend IGA/JPA 04-030 between the City and State to include right-of-way enhancement and sidewalk improvements along north side of Sheldon Street and west side of Gurley Street within the area of the SR69/SR89 Interchange project.

Scott Tkach, City Engineer, said that on December 10, 2002, Council adopted a resolution approving an IGA between the Arizona Department of Transportation (ADOT), Department of Public Safety (DPS), Yavapai College and the City of Prescott for acquisition of real property for construction of the SR69/SR89 Traffic Interchange improvements. As a condition of that resolution the City agreed to provide right-of-way enhancement improvements along Sheldon Street easterly onto Gurley Street and Yavapai College agreed to maintain the right-of-way enhancement upon completion.

He said that two years later the Council adopted another resolution requesting that ADOT include certain features in the project and a month later a resolution was adopted approving an IGA with ADOT. However, the executed IGA, which is the controlling document between the City and State, differed in content than that in the resolution. The right-of-way enhancement improvements along Sheldon and Gurley were omitted from the executed IGA and the sidewalk from Sheldon to connect to the multi-use patch was not included in the construction plans.

There is a need to restore pedestrian connectivity from Sheldon Street to the VA Hospital and the City is obligated to install right-of-way enhancements. Based on the ADOT unit price contract for the project, the estimated cost of these improvements is approximately \$360,000 including sidewalk, right-of-way enhancements, lighting, irrigation, traffic control and engineering. ADOT has agreed to split the costs of this work and the City's share would be approximately \$180,000. If this is agreeable with the Council, an amended IGA will be brought back to Council for formal action in the future.

Mayor Wilson asked if the \$180,000 was completely separate from the \$177,000 being billed to the City by ADOT. Mr. Tkach said that it would be in addition to the \$177,000. He said that they have had some dialogue with the College, who would need to be willing to take over the landscaping, running between \$30,000 and \$50,000, and they still have that to work through. He said that they were not asking for approval at this point, but whether the Council wished to moved forward in that direction.

Councilwoman Suttles said that she would bet that it would cost more than \$360,000 for the City to do it later, and right now they are getting the costs split. Mr. Tkach added that down the road the construction costs will accelerate as well.

Councilwoman Suttles asked if the City had money for the project. Mr. Tkach said that they are anticipating using some of the money being saved with the chip seal project that came in under budget. Councilwoman Suttles said that she thought they should continue discussions.

Councilman Lamerson said that he concurred with Councilwoman Suttles; they need to continue dialogue with ADOT as they are partners with them on numerous projects, as well as Yavapai College.

Councilman Bell said that in thinking back on when they made the agreement with ADOT, he felt they had taken care of all of what needed to go in there, and he felt like they were being a little disingenuous. He said that he believed that the City contributed about \$1.7 million to the project. Councilman Roecker said that he believed Councilman Bell was correct. Councilman Bell continued that for them to come back now and say it was left out and they want more money was upsetting to him.

Mr. Tkach said that he did not have the full history on why the sidewalk was not included in the IGA, but they are going to want to preserve the connectivity, and the landscaping is to cover up some traffic signal cabinets in the park and they would want to do that because it is the gateway into the community.

Councilman Roecker said that he did not think they were talking about not wanting to do it, but rather who would pay for it.

Mr. Norwood said that part of the issue may have been that when the bid came in for the project it was millions over and it was not going to get done. The Council worked hard to restore the funding and there was probably some value-engineering.

Mr. McConnell said that the project was at risk and there was a serious question on whether it would be reconstructed. He said that at one point they were in a meeting where a signalized intersection was suggested, doing away with the interchange, because of lack of funding. Mr. Foster, the District Engineer at the time, worked it so they got the project in the program and stayed in the program. Unfortunately, the project was cut back to reduce costs and things were left out.

Councilman Luzius agreed that the project has to be completed and it has to be landscaping. He said that he had a problem with tapping into the preservation project. He said that they had an engineer's estimate of \$1 million and they saved \$300,000 with the project, but they do not have the money. It may have been budgeted but they would be picking the dollars out of the blue. He said that while continuing the discussions he would like to find out what the plans are for the memorial on the other side of the street.

Councilman Lamerson said that having the project is better than not. Collaboratively they are all part of the same government and in the spirit of public health and safety they need to get it done.

Mayor Wilson said that he was hearing from the Council that they should continue the dialogue.

Michael Allen Peters, 640 West Lee Blvd., said that his understanding was that they need the improvements for connectivity to the VA Hospital; however he believed they have access through the college. He said that he did not know the legal consequences, but perhaps they could rescind the original resolution and have ADOT complete the final touches without all of the glitz and glamour.

Jo Berger, Facilities Manager for Yavapai College, thanked the Council for trying to fix the project. She said that she had tried to read some of the material and it is difficult to do forensic document research to see who made the mistake. She said that it may be prudent to do what Mr. Peters suggested, but it is one of the key entries to the City and while there is pedestrian access through the college there is a scar as a result of the construction that exists along the front of the college and one of the main entryways into the City. She also added that ADOT is currently mobilized on the site and if they looked to do something in the future to clean it up then the costs are going to be higher. She said that the college is willing and able to do some things. They have some boulders and manpower and are willing to be a collaborative partner. She said that they would appreciate anything the City could do and would ask for their support to move forward.

Thomas Slaback, 715 East Goodwin, said that the majority of the VA patients go out through the front and use the sidewalk rather than going through the rear on the dirt access into the college.

Councilman Luzius said that he remembered when it was first talked about and also at the time Mr. Foster said that ADOT was not in the business of providing pedestrian access, sidewalks. It was through a great deal of effort by the Council at that time that it was achieved. He said that he was not against the plan, but he does not like having a gun held. At this point it certainly needs to be done and is a convenience for pedestrians.

- J. Adoption of Ordinance No. 4702-0945 - An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting the Revisions to Standard Details for Public Works Infrastructure and amending the Land Development Code to include the Revised Standard Details.

Mr. Tkach said that the City's current Public Works Standard Details are from the Maricopa Association of Governments (MAG) and Yavapai Association of Governments (YAG) standard details. The YAG Details supplement the MAG details and are specific to the Prescott region considering operation and maintenance of City streets, water, and sewer systems, and local topography, climate and geologic conditions.

He said that the YAG Details were adopted in 1998 and have not been revised since. In an attempt to better serve the needs of the City and provide consistency between private development and capital improvement projects, staff recently revised several of the YAG Details. They were presented, in draft format, to both the engineering and contracting communities. Additionally, they were also presented to the Unified Development Code Committee and the Planning Commission.

Mr. Tkach said that in order for the revised P-Standards to be applicable to both private development and capital improvement projects an amendment to the Land Development Code Section 7.4.2A is required.

Michael Allen Peters, 640 West Lee Blvd., suggested that a clause be added that when there is a conflict among the three that the P-Standards would be determinative. Mr. Kidd said that was a good suggestion and one that should be included.

- K. Discussion of Ordinance No. 4665-0908 regarding water and sewer development fees.

Mr. McConnell said that this item was to discuss the water and sewer development fees (also known as impact fees) which were set by Ordinance No. 4665-0908, adopted 10/28/08 to become effective 07/11/09. He said that they are one-time charges assessed to new growth which can only be used to provide the new capacity required to serve that growth.

If impact fees are inadequate or eliminated, it is unrealistic to expect existing customers will embrace paying for new capacity to serve growth through higher water and sewer rates. Accordingly, in the event projects for replacement of existing lines planned to be funded in part by impact fees must be removed from the capital improvement program due to a lack of funding, neither rehabilitation of the aged lines nor remedying the existing capacity deficiencies will be achieved. He said that the more such projects are eliminated, the more serious will be the public health and safety consequences.

Mr. McConnell said that included in the packet and available to the public with the agenda was a comparison he mentioned at the budget workshop, showing the actual water/sewer impact fees collected during the first four months of this year versus the revenues that would have been collected. There is \$177,000 which has been lost and cannot be recovered. He said that if the impact fees had been effective in January instead of July they would have collected an additional \$177,000.

Also included in packet and mentioned at the budget workshop were the revenue estimates for projects in the pipeline. Even in this economy, some of these are in the City and some are in the water service area in Chino Valley. If all of those plans and projects being processed were issued at the current fees instead of the new ones effective in July the difference is \$800,000. The farther they go into the future, even in this economy, the numbers get quite sizeable.

Mr. McConnell said that also at the budget workshop it was noted that the wastewater fund is not healthy at all and there is very little money in that fund to do capital projects. They more they keep revenue away, or not gained, they are going to have almost no projects. They have some very important projects at the airport wastewater plant and there are implications if they do not provide for those.

He said that following the adoption of the ordinance last October the Mayor created an advisory committee on impact fee alternatives and members of that committee were at the meeting today to address the Council on their findings.

Mayor Wilson interrupted the presentation to allow Mr. Norwood to report on an accident. Mr. Norwood said that he had just received word that about an hour ago there was a head-on collision of two school buses on Road 4 North in Chino Valley. He said that 42 kids were hurt, 12 serious, and the City had three engine companies there.

Mr. McConnell said that this item was on the agenda for discussion and direction by the Council. After hearing public input, if the direction is to proceed with the ordinance, then no further action would be necessary. If the Council prefers to leave it on the agenda, or modify the existing ordinance, then they would receive that direction.

Councilman Lamerson said that having been the Council liaison to the Mayor-appointed committee which consisted of developers, contractors, builders, he wanted them to know that the committee spent a lot of time going over every nook and cranny. With that, he had full confidence in the committee that they would speak righteously of what they did.

Councilwoman Suttles said that in looking at the breakdown and seeing what they were losing, she found it hard to believe they could extend the freeze any longer.

Councilman Bell said that they extended the fees for six months at the urging of the YCCA and the Chamber because of the economy. He also feels it is time to go ahead and enact the ordinance, and he was anxious to hear what the committee had to say.

Councilman Luzius said that he thought it was time to put the ordinance in place; there was no need to prolong the freeze.

Gary Hudder, Chairman of the Mayor's Advisory Committee on Impact Fee Alternatives, addressed the Council noting that they saw the significance of the dollars last week for the first time. He was there today to thank the Council for the opportunity to participate in the process. He said that it was no secret that the infrastructure needs attention as a result of rapid growth. As the current President of YCCA, he was heavily invested in a lengthy debate that took place most of last year. He said that many of their YCCA members do not support the increases and as a result the association was called upon to become involved on their behalf.

He said that they spent much of their time investigating the information compiled last year supporting the increases, and they found that they needed more time to offer their thoughts and suggestions. Early this year they compiled their citizen group and held their first meeting. The committee was made up of several business leaders in the community, as

well as Councilman Lamerson and Mark Woodfill from the City, and they appreciate the contributions of the City leaders.

He said that although he did believe they were successful in seeking out alternatives and options to the proposed increases, they had most recently run into a situation where they simply cannot stay ahead of the things transpiring at the State level. They have spent weeks working and gathering information on options, coming up with ideas, just to have the State take the wind out of their sail, the most recent of which is SB1035 which specifically addresses the use of an additional construction sales tax revenue source, which was an option they discussed at great length.

He said that they do believe they did a thorough job of researching many alternatives and through the assistance of several City employees, identified some options that have real value. Some of the options could provide better and more consistent revenue streams, but more time is needed than is available to the Committee before July. While they still disagree with the City's plans to move forward, they realize that the Council is tasked with making that decision. They did, however, want to make a formal request to reconvene the committee later this year so they can be involved in the regular review process of impact fees that occurs every two years. They have become much more informed as to the challenges and needs of the City and the limited sources available for the needed revenues by statute.

Mr. Hudder thanked the members of the Committee that generated their time—Malcolm Barrett, Jr., Sandy Griffis, David Maurer, Tom Haley, Steve Conrad, Vic Pereboom, along with Mark Woodfill and Councilman Lamerson, along with contributions from Mark Nietupski. Additionally, he noted that Asphalt Paving & Supply contributed the secretary who was at all the meetings and did the administrative work. He said that he appreciated the opportunity and while they were not conceding, they think they did a great deal of work that would merit continuation of the committee.

Councilman Roecker said that he appreciated Mr. Hudder's comments. He then asked if they would support continuing deferment of the impact fees or application of the new rates. Mr. Hudder said that they did not support the increase and would prefer the deferment.

Councilwoman Lopas said that if they are looking at a potential state impact fee raid, she asked if it would not make sense to look at doing a construction tax to avoid that. Mayor Wilson said that the conundrum, as he understood it, was that SB1035 includes the prohibition of using a construction sales tax as an alternative to impact fees.

Mr. Hudder said that one of their frustrations was that they felt a construction sales tax would be beneficial as it would capture such things as reconstruction, remodeling, etc. which today are not impact by an impact fee increase.

Councilman Lamerson thanked Mr. Hudder for chairing the committee. He said that Mr. Hudder was right that \$177,000 was a significant number, especially in an economic time such as they were in, and especially considering that there has been a push for affordable housing, at some point in time the capacity issue is significant if what they do is jeopardize the entire building community when they cannot reach capacity because they did not collect the money necessary. Mr. Hudder concurred with that, noting that facts are hard to argue.

Mayor Wilson thanked Mr. Hudder and other members of the committee for their hard work, and he supports the continued existence of the Committee, some time in the fourth quarter. He said that it is a matter of transparency and the more citizens they get involved in the process the better off the governmental process is. He sees no downside. He said that he felt their frustration.

Councilman Luzius asked if it was a fact that the construction sales tax was predicated upon the actual selling price of the home and if it was a fact that the amount of dollars for impact fees could be subtracted from the selling price of the house; therefore, the sales tax is less because of the fact they can deduct that.

Mr. Barrett said that impact fees are not taxed. Mr. Woodfill said that the taxable amount of construction is the amount of the construction, less 35% deduction associated with the labor cost involved, less the land, and less the impact fees, so it does reduce the overall taxable amount of construction impact fees.

Greg Sober, 8 Cienega Drive, this year's Chamber of Commerce Board Chairman. He said that Dave Maurer regretted being unable to attend the meeting and he wanted to thank the Council for their previous support for three out of the four proposals to put Prescott back to work. He said that he wanted to briefly reiterate their support and wanted to remove an obstacle to construction projects and encourage construction activity to promote local employment, fees and tax collections. He said that builders do not exist in a vacuum. He said that the Chamber has refrained from increasing its membership rate for several years.

He said that they understand that the City has determined that had the higher impact fees been in place there would have been an additional \$177,000 in revenues; however, they question whether the moratorium

encouraged activity that would not have occurred; ultimately, he said, it was the Council's call.

Councilman Lamerson thanked Mr. Sober for his work at the Chamber. He said that not to be adversarial, and while he was not a proponent of impact fees, they were the only tool the community had at this point. Mr. Sober said that he was not well informed on all of the options, but his point was that the delay may have served as a stimulus for economic activity.

Councilwoman Lopas said that the biggest problem is the lack of construction loans; it is a huge problem. Delaying an impact fee does not free up money to do building. The construction loans are not there for the commercial builders. She said that they have not seen a race to the permit counter. She said that she also thought that by delaying any further it was playing an accounting game. They cannot defer anything; that was why the State was in so much debt.

Malcolm Barrett, Jr., 3211 Kay Court, said that through the process every time they came up with a possibility of revenue replacement, such as the construction sales tax, it would have to be voted on by the people. He said that his point is that they were in full support of keeping the control local. He said that everyone that gets involved in government things that the other levels are evil. He said that whether they agree with the increase, they do agree that the control should remain local and they would support the Council in those efforts.

Jack Helman, 849 Flying U Court, said that he spoke to the Council last October expressing disagreement with the six-month delay. He said that although this was an issue in which he had a vast reservoir of ignorance, there were some simple elements. The Council issued a consulting contract to professionals to come up with recommendations on appropriate impact fees and an apparent quality report was provided, reviewed with staff's time, and everyone agreed with the recommendations. He said that he saw no reason not to get on with it; he was perplexed. He asked why they would issue a contract, review it, agree with it, and then delay its implementation.

Sandy Griffis, YCCA Director, asked for clarification on the deletion of Line G in Ordinance 4665. Mr. McConnell said that it deleted the provision that annually the fees would be automatically increased by 5%. When they discussed this ordinance, the counsel advised that an arbitrary number of 5% needed to be replaced by a CPI adjustment which is provided for in the statutes, and they could be automatic as long as they meet certain criteria.

Ms. Griffis said that if Ordinance No. 4523 is no longer in effect, and they now had an arbitrary CPI increase, she asked if they were traveling down the right road. Mr. McConnell said that they discussed this at length in 2008 at the time it arose. He said that there was some question about the sequence in State law regarding the automatic increasing, and it was the advice of legal counsel that there was no need to go retroactive and give money back.

Ms. Griffis said that she would like to know what index was used for the May 2008 increase. She asked if they went through an increase in May of 2009. Mr. McConnell said that he believed they did. He said that they were going over ground that was traveled in excruciating detail all of last year. They have an existing ordinance that will be replaced by the ordinance on the agenda and if the ordinance on the agenda goes forward the CPI would be there, not the 5%.

Leslie Hoy, 1880 Coyote Road, said that seems like they are going to agree to move forward with the impact fees so she did not want to be too confrontational. However, the YCCA and Chamber continues to try and avoid paying their fair share. She then read a few paragraphs of the advisory committee meetings minutes, which most have not seen because they had not been posted. She said that the sewer impact fees had not been increased for seventeen years. They are in this situation now because past councils did not have the guts to raise them. She was hoping that they would find the courage to not vote for a special interest, but in the best interest of the citizen ratepayers of Prescott.

Mayor Wilson asked Ms. Hoy what percentage of the minutes she had read, and whether it would be considered selective reporting. Ms. Hoy said that she could have read all of the minutes, but she would have exceeded her time allotment.

Howard Mechanic, 309 Bloom Place, said that to call it a citizens committee was stretching the term; it was a developer committee. It did not represent a broad stroke of the community. He said that they want others to pay their fees. He said that they need to stick with “growth paying for growth” and not have someone building a deck subsidize someone’s sewer. He said that he appreciates the Council going ahead and implementing the ordinance, which was a fair fee.

He said that it appears that people are upset that the City has lost over \$100,000, but when they spoke about this earlier he had predicted that. He did not understand the surprise. He said that the action being taken today by the Council will stop one of the subsidies, but he hoped they would stop the others. He said that he appreciated the Council dealing with it the way they are, and hopefully they will not have to deal with it

again. They need to have the experts come in and if there is an alternative for growth to pay for growth, consider it.

Mr. Hudder said that he stood up there in the Fall and said if the data leads them to an obvious conclusion, fine, but they wanted an opportunity. He said that there was not a bias in the community. They met and followed the Open Meeting Law and citizens were welcomed at their meetings.

Councilman Bell said that he thought there was a misconception that if the impact fees were not paid by the developer they were not paid by the contractor. In this market and economy, a contractor has to include all of his costs and in many cases can only ask for his costs. There is no way he could come in and bid a job without passing that cost on to the people that buy it. It is not the developer and contractor saddled with the fees.

Councilman Roecker said that he thought they did the right thing in deferring the fees, for the local economy, and now believes is the right time to reinstate them.

Mayor Wilson said that it appeared that the Council supported not doing anything, thereby allowing the new fees to go into effect on July 11.

Councilman Lamerson said, in response to what Councilman Bell said, that he understood that the fees get passed on, but they should be passed on to the person building it. He asked what was justifiable to continue charging people that had nothing to do with the house. Maybe that is why they have the concept of “growth paying for growth.” He agreed with Councilman Roecker that they deferred at a time that did not make sense to put them in place, but they now got the facts in their face of \$177,000 for four months. It did not go away, someone else paid for it.

- L. Adoption of Resolution No. 3965-0971 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, repealing Resolution No. 3941-0947 and adopting a new resolution to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA).

Mr. Woodfill said that the Council had previously adopted a resolution authorizing the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). The WIFA Board has approved the City’s application, pending adoption of this new resolution which would repeal the prior resolution and authorize a new amount of \$1,111,000.00.

Councilwoman Suttles asked what was not included in the original amount. Mr. Woodfill said that they had used just the contract amount for authorization, without including the costs of inspections and quality control.

- M. Notice of Public Hearing (June 9, 2009) and consideration of a liquor license application submitted by Michael Angel Bonilla, applicant for the BDPC, LLC, for a Series 12, Restaurant, license for Chi-Town Pizza, located at 1385 Iron Springs Road.

Ms. Burke reviewed this liquor license application, noting that a Public Hearing had been scheduled for June 9, 2009, the property had been posted and the applicant had been asked to be at next week's meeting.

- N. Notice of Public Hearing (June 9, 2009) and consideration of a liquor license application submitted by Elizabeth Ann McIntire, Applicant for Prescott Inn & Suites, for a Series 11, Hotel/Motel, License for Prescott Inn & Suites located at 4499 Highway 69.

Ms. Burke reviewed this liquor license application, noting that a Public Hearing had been scheduled for June 9, 2009, the property had been posted and the applicant had been asked to be at next week's meeting.

- O. Discussion on creation of a standing committee to review the City of Prescott Street's Capital Improvement Program.

Deputy City Manager Laurie Hadley said that this item was the result of many meetings they have had with regard to the sales tax election, and a proposal from them that the City may benefit from forming a standing committee who could review City street needs.

She said that the group would review and provide input and suggestions regarding the Annual Street Program that would be presented to Council during the budget process. Input would be received on pavement preservation, rehabilitation and general improvement work. They felt it would enhance community awareness of the street program and how they are prioritized, and would provide an ongoing venue for addressing the street system needs and required resources. They also felt it would provide an open line of communication with Council and provide the transparency that they felt the public was looking for.

Should the Council decide to move forward, it could be a Mayor's committee or a standing Council committee. The Council could allow each Council member to appoint a member or take applications. She said that a Mayor's committee runs with the term of the Mayor. If the Council desires,

they could go back and create rules and responsibilities, and bring those back at next week's meeting.

Councilwoman Suttles asked what they plan to achieve from the committee. She asked if the committee would instruct the City's public works employees as to what they think should be done.

Ms. Hadley said that it would not be their role to instruct staff. Their role would be to review and provide input. She said that this was a request from the citizens to be involved in the process when they go through identifying the streets to be repaved.

Councilwoman Suttles said that she did not see the benefit of having one more group to be involved in something that the City does, especially streets, unless they know more than the staff person doing it.

Jason Gisi, 3200 Lakeside Village Drive, said that he met with the Open Space Alliance and at that point transparency was discussed. He said that they thought there might be a resolution that the Council might pass with an affirmative statement that there would be disclosure and transparency.

He said that the City gets hammered on multiple issues for a lack of transparency and their response has been to create more committees, and he thought that was positive. It would provide some cover for staff which is needed from time to time. He said that they would need 3% to build all of their roads, and they are getting .75%, and are going to have to make some strategic decisions. Doing that through the public process is something that would be positive, and not negative. He said that he understood her point. They have a staff full of professionals that are paid to do their job, but the transparency issue has permeated the community on various subjects and has created challenges.

Councilwoman Suttles asked if the Open Space Alliance felt there needed to be a transparency in the City government on streets. Mr. Gisi said that was correct. Councilwoman Suttles asked what they were hiding.

Mayor Wilson said that going back to what Mr. Hudder said earlier, when they got in there they got educated on what the City is constrained by. He thinks the same thing will happen with a citizens' committee. They will get in there and find out what they thought was a simple problem. He said that all they do is advise the Council; they would not tell staff what to do. He said that it would enhance the transparency. He said that does not think the City is hiding anything, but people have that perception, and perception is reality.

Councilwoman Suttles said that she finds it difficult that they need to have one more committee to include them in a street program.

Councilman Roecker said that one thing he has learned is that every citizen in Prescott knows how to fix streets. He thought that transparency was the issue, but they provide as much transparency from their staff that anyone that wants to know can find out. They have a list of streets today. If they form another committee there will be another citizen saying it was biased. He said that the responsibility lies with the Council and the issues should come to them. He did not think they need to create a committee to create more transparency. If they want it they can find it.

Councilman Lamerson said that it appears that the formation of citizen committees shifts the accountability and responsibility on to the shoulders of citizens to instruct or recommend what the City staff is paid for. He said that perhaps they need to get rid of the consultants and the employees. He said that he agreed with Councilwoman Suttles. It was just another opportunity to shift the responsibility and accountability of people they pay to make decisions.

Councilwoman Lopas asked how much staff time would be involved if the committee was formed. Ms. Hadley said that they would meet some time prior to the budget starting, working with the Public Works Department, and it would require minimal staff time.

Councilwoman Lopas said that having served on the Open Space Acquisition Advisory Committee, they did what staff did not do. In the most part, they were used to fill the holes. She said that she could see why they want to be involved. Prescott Valley has their Citizens Academy and it is a good way for citizens to know what is going on. It gives better insight.

Jim Lawrence, 345 High Chapparal, said that the example just given on what would happen if the impact fees were not implemented is the type of transparency that the original suggestion was about. From the standpoint of the Council, whether it is done by a committee or done strictly by the Council, he is one to believe that the citizens elect them to make the decisions. It is not something to shift the responsibility to the committee, but it is not to say that the committee could not provide useful input.

He said that from the standpoint of transparency, the transparency was that when a new street project comes in to be voted on by the Council, the Council should know how much of it was impacted by growth. He said that right now Mr. Woodfill goes to the impact fee fund for its share and that is the wrong time to find out there is no money.

Secondly, Mr. Lawrence said, that if it is impacted regionally, there should be the question of whether the County or state, or other communities in the region, should be contributing to the costs.

Councilman Bell asked Ms. Hadley if a standing committee would be set up by the Council or if they would need to wait until after the election. Ms. Hadley said that would be up to the Council. She said that they could direct staff to form the committee, but not appoint until they know what Council would be seated.

Councilman Bell said that to resolve the issue at the moment they could direct staff to come back with the roles and responsibility the committee might have. Ms. Hadley said that they could do whatever Council wants them to bring back.

Michael Allen Peters, 640 West Lee Blvd., said that they should not let the tail wag the dog; they do not need a committee. They have experts and they should let the professionals form their own committee, and not waste everyone's time. He said it is ultimately their responsibility to make the decision.

Howard Mechanic, 309 Bloom Place, said that he thought this came up because they want to get the sales tax extension item passed, and it is a matter of transparency.

He said that there is some concern in the community that the sales tax funds subsidize roads for new growth. He said that the Council should state that they are asking the public to approve the tax and before they spent the money they would disclose to the public how much of that project is to serve existing residents, how much is to serve new residents, and how much of it is to serve through-traffic.

Councilwoman Lopas said that if that is the information needed, they could get that from staff, and they would not need a committee. She said that perhaps they need to change the process; gather the data with staff and put it out to the public. Mr. Norwood said that they could do that.

It was agreed that there would be nothing brought back to the next meeting.

- P. Approval of the Minutes of the Prescott City Council Workshop of May 12, 2009, the Joint Special Meeting/Study Session of May 19, 2009; the Budget Workshop of May 21, 2009; the Public Workshop of May 26,

2009; the Regular Voting Meeting of May 26, 2009; and the Joint Special Meeting/Study Session of June 2, 2009.

No discussion.

- Q. Selection of items to be placed on the Regular Voting Meeting Agenda of June 9, 2009.

Councilman Bell said that those items on the Consent Agenda would be A, C, D, E, L and P. It was agreed that there was no problem with F, but it would be kept off to keep it with Item G as they go together.

Mr. Norwood updated the Council on the accident in Chino Valley. He said that 14 students were transported to the East and West campuses of Yavapai Regional Medical Center. The bus driver was pinned and in critical condition, and was being transported to Flagstaff. He said that it looks as though it was not a head one, but rather one bus had stopped and the one behind it did not see it stop and rear-ended it.

### III. ADJOURNMENT

There being no further business to be discussed, the Study Session of the Prescott City Council held on June 2, 2009, adjourned at 6:10 p.m.

## SPECIAL MEETING

1. Call to Order.

Mayor Wilson called the meeting to order at 6:17 p.m.

2. Recess into Executive Session.

**COUNCILWOMAN SUTTLES MOVED TO RECESS INTO EXECUTIVE SESSION; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.**

3. EXECUTIVE SESSION

- A. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS Section 38-431.03(A)(4).
  - i. Salt River Valley Water Users' Association vs. City of Prescott
  - ii. Asphalt Paving & Supply, Inc. v. Granite Dells Estates Properties, Inc., Granite Dells Estates Properties II, Inc.; City of Prescott.
- 4. Adjournment.

The Prescott City Council reconvened into Open Session at 7:47 p.m. at which time the Special Meeting held on June 2, 2009, adjourned.

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JACK D. WILSON, Mayor

ATTEST:

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ELIZABETH A. BURKE, City Clerk