

PRESCOTT CITY COUNCIL
REGULAR SESSION
TUESDAY, JUNE 9, 2009
PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Regular Meeting held on June 9, 2009 in the City Hall Council Chambers, 201 South Cortez, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Father John Peck, Prescott Orthodox Christian Church

Father Peck gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Mayor Wilson

Mayor Wilson led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

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

ABSENT:

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

Mr. Norwood reminded Council that the summer clean up was going on and the guys were running ahead of schedule. He asked them to get their stuff out by Monday morning by 6:00 AM the week of their pick up, and residents could check the website for the information.

He reported that on June 2 the library had another record day with 2000 people going through. There were no special events on that day. He expects to see continued increases throughout the summer.

I. PUBLIC COMMENT

- A. Anne Badger regarding the Courthouse Plaza summer concert schedule.

Anne Badger, P.O. Box 12995, Prescott, AZ 86304, said that she plays tenor sax for the Central Arizona Concert Band. For the last ten years they have performed on the square every third Thursday of the three months of the summer. They are one of the most popular groups and bring in hundreds of listeners. Someone wrote and said there were not enough summer activities for children, and she felt that a concert band was very child friendly.

She wondered if the City Council was aware that the June concert was cancelled and asked why one of their concerts had to be cut out when they are usually only scheduled for three. She said that musicians come from all over Arizona to play in their band and they arrange their work and vacation schedules around their performances. Those that planned to play in the June concert are left in the lurch.

She also felt that the time change was an inconvenience to the people who come from retirement homes due to their dinner schedules. The extra fifteen minutes allowed them to get in the buses and get their chairs set up. The band has also been told it must use another sound system, not provided by Desert Sky Media and she wondered why. They would like to request that Ted Leonard does their sound.

She said that they fail to understand why some new person would change around the summer schedule without taking time to explore what has worked well. She said she was for change but it should be logical and thoughtful. They are not the only ones affected by the changes. It is too late to reinstate the old schedule. She said that what is done is done. Band has decided to give a concert on June 14 at Embry Riddle. They would like to be reassured that they will have three performances next summer, on the square, every third Thursday.

Mr. Norwood said that they have been into this for a week and have seen that it has been very successful the first week. He will get Council a report about the rationale behind it.

II. PROCLAMATION

- A. June 16, 2009 as *It's in our Hands / United States Census 2010*

Mayor Wilson said that they will read the proclamation next week.

III. PRESENTATIONS

- A. Presentation of 2009 Prescott Preservation Commission's *Preservation and Stewardship Awards* to Prescott historic property owners by Commission Chairman Doug Stroh.

Doug Stroh – presented the following Preservation/Stewardship awards, which were recommended by the Preservation Commissioner Russ Buchanan and the City Historic Preservation Specialist Nancy Burgess:

Preservation/Restoration Awards

216 East Goodwin – Greg & Roseanne Hague
309 East Goodwin – Eric and Kristin Ainley
311 East Goodwin – William and Mindy Sheble
125 West Carlton – Michael Lahaie
204 Apache Drive – Reva McGillivrae
105 South Alarcon (Murphy/Gage House) – Alarcon Investments:
Don Biele and Donovan Myers
105 South Cortez (Knights of Pythias Building) – TIS Holding
Company, LLC
128 North Mt. Vernon Street (Governor Sloan House) – Marv and
Bev Wright

Stewardship Awards

309 South Washington – Tomas Atkins
944 & 944 ½ Apache Drive – Edward and Betty Newell
227 North Pleasant _ Lawrence and Nancy Shader

- B. Tim Barnett, CEO of Yavapai Regional Medical Center, regarding the hospital's strategic planning process.

Mr. Barnett introduced Joe Jackson, the Board Chair of Yavapai Regional Medical Center. He said that every three years Yavapai Regional Medical Center rewrites its strategic plan. 2009 is the year they write the plan and 2010 is the year that they start implementing it. They get a lot of input into the strategic plan process. As a large, nontax supported hospital in the region, they were looking for feedback from their community on how they can do a better job. Their purpose was to listen to the City Council for 15-20 minutes to try to get an idea on how they are doing. They had two questions that they asked to do that. He said they cannot talk patient specifics and also they recognize that they have resource considerations on what they can accomplish.

He said that first they would like to ask, in the eyes of the community, what Yavapai Regional Medical Center does especially well and secondly, what they can do better.

Councilman Roecker said that he appreciates the volunteers who are terrific people, and helpful. They help people find their way around. Also, he likes the therapy dogs. He said that when they come into a room or waiting area they brighten everything up. He thought it was a good touch.

Councilwoman Suttles said that the hospital has probably been affected with the economy and she is hoping that Yavapai Regional Medical Center is working with the community as to where they are revenue wise, as to type of service they are getting because financially, everyone is affected and they try to take care of themselves. She is hoping they make sure they work through each individual case trying to get them where they are going and not turning anyone away. Mr. Barnett said that they do not turn anyone away based on ability to pay.

Councilman Luzius mentioned that regretfully he spent six to seven days in their hospital back in October, and the care that he received was excellent although it may have been due to him telling them that he knew Tim Barnett. They took good care of him and he thanked the board for what they do.

Councilman Bell said that he had an opportunity to spend some time in the cardiac rehab. The nurses and the program were excellent as evidenced by the fact that he was still there. He thanked them and said that everyone was wonderful.

Mayor Wilson said that he was in the facility before he knew Mr. Barnett and he wanted to compliment nurses and nurse assistants for going the second mile. He appreciated their service and got them a two pound box of candy for doing a great job.

Addressing the second question of what they can do better, he said that Prescott is a microcosm of America with the population. They have twice the state average of people over 65 and Arizona is above the National average of people over 65. They represent the aging population, where medication is going in the future. Prescott is a laboratory in that respect. The City of Prescott is getting ready to establish a Commission on Aging to look at issues associated with that question. Some of it is informational and some of it is how they provide services and he thinks that it is a coordinating effort that needs to reach across the City, County and the hospital as well.

Councilwoman Suttles commented on the second question by saying that last year they decided to switch campuses and do new births in Prescott Valley, and the Prescott facility would be for heart surgery. It bothers her that there will not be another baby born in Prescott. The City still has newborns. She asked if other campuses split out that way.

Mr. Barnett answered that what they are finding is that hospitals are looking at how to become a center of excellence in one service or another. For awhile it was a medical arms race, where they tried to get everything on two competitive campuses and be all things to all people. There are not enough dollars or ability to pay for those things. Instead of splitting two units into two staffs that deliver half of the deliveries each, they can bring in a Level 2 Nursery and handle a lower level of gestation for some of the neonates who will be there. They will have a signature program that will be better for the region, just like the heart program would be better for the West Campus. They have already recruited their second cardiac surgeon to meet that need.

Councilwoman Suttles said that she serves on his Board of Electors for the City Of Prescott. Along with her, there are about 18 others. She enjoys that they are spread out to everything. They are from the schools, Tribe, and veterans. A number of different individuals there are sitting on that board.

Councilman Lamerson added that he has had a lot of experience at the hospital. His Mother and Father died up there and his daughter was born there. Through all of it, the employees were very sensitive and caring. As to what they could do better, he knows that they try real hard to be a community member, and everything they do is appreciated. They are a major player and big economic engine in the City of Prescott. He hopes that they stay in town.

Councilman Bell said that not too long ago he knew a physician trying to work in the hospital and he commended Mr. Barnett for loosening that requirement and allowing physicians to work there.

Mayor Wilson asked if the concept of center of excellence was superregional and included Verde Valley. Mr. Barnett answered that they were trying to keep up with the immediate region. They do not actively market in Cottonwood, but the Prescott medical community is well known for their quality.

Mayor Wilson inquired about the issue of physician recruitment. He knows that both primary care and specialty physicians have been a challenge. He wondered if there was anything that the City could do to help.

Mr. Barnett said that they are making progress. They have some legislative initiatives that they may need help from City Council on. They have three new Primary Care doctors who are joining them in July and August, and there are any number of other ones in the works. That is continuing to be one of the biggest strategic initiatives.

Councilwoman Lopas said that she had not had too much experience with the hospital, however, her daughter did break her arm a few years ago and everyone was very good with daughter. It is scary when kids go in with all of the big machines; the doctors were kind to her. Her Grandmother and Councilwoman Lopas' in laws have gone through the typical elderly issues and they all said they felt well cared for. She felt that it was disappointing that there would be no more births there. Two of her sisters were born there as were her nieces and nephews. Something is missing if someone cannot say that they were born in Prescott.

As a realtor she helped relocate some of the doctors there. Realtors would like to help. She is on the governance committee for realtor's board and she will help them out in any way. The specific comments from younger doctors are that they could earn more in Phoenix, but they will not have the quality of life.

Mr. Barnett appreciated the Council taking time to answer the questions. He said that it would be fed into the strategic planning committee and that they are doing 16-17 sessions around the region. He also said that their input was valuable and that he values the privilege of talking care of the community's health care needs.

C. Presentation by Rob Vannett on "Bee Friendly" Proposal.

Rob Vannett 4665 Dooley Drivem presented the Clerk with apples for the City Council and thanked them for the opportunity to stand in front of them.

He said he was not sure if everyone was aware of the CCD issue--Colony Collapse Disorder which affects the bees. Bees are at a steady decline, the last that he had heard, about 80% of the bee population had dropped since 2006. The human population cannot sustain themselves with Splenda and honey is one of those gifts from nature that they take for granted. The European honey bee has been very industrious and very effective at the way it performs its duties so graciously for humans. Not only does it produce honey, but it pollinates 90% of the crops around the world. Without the bee they stand to lose a great deal.

He said that George Washington brought the honey bee from Europe into the New Americas to make them a stronger America. Now there is a

serious crossroads. He believes that they can turn things around if they work together. He and Terrell Sharp from Prescott College have a Bee Friendly proposal. The apple would not be there without the bee. They would like very much to see Prescott become one of the first Bee Friendly Communities in the United States and have it become a trend across the country and around the World.

The pollinator is very capable if they give it a chance. The Silence of the Bees Movie will be playing at Prescott College in the Crossroads Center on June 13 at 7:30 p.m. It will give the citizens information what is going on with the Colony Collapse Disorder.

Councilman Roecker said that he had heard about the aggressive bees in the area. He knows that they are in Bisbee, and was wondering if they are a problem for the honey bee.

Mr. Vannett said that they can have an effect on them. With the decline they need the bees. He has spoken with the Fire Department regarding that issue. It is something that would affect the honey bee. In the long run they would not want to eradicate the hibernized bees. Right now the decline is so extreme they would not want to hamper pollination.

They went to a Carl Hayden bee laboratory in Tucson where they are alert to the Africanized bee. They have a working hive there and they monitor it to make sure that the Africanized Bee does not get in the hives.

Mr. Sharp showed the Council a very early draft of possibilities. They would be interested in hearing from the City Council eventually on how to tie this in with projects just getting started. Some of the schools are creating pollinator patches, flowering draught resistant shrubs. The idea is to have a string of these patches to provide the beauty for the City and the incidental benefit for the bees. He sees this as a way to enhance the visual beauty of Prescott on City property and vacant areas. They have botanists and entomologist on their unofficial team so far. They want to design them in a way so they are not out of control. The bees are just there to forage and return to the hive. They do not represent any danger to the public. He then gave them a flyer with his email.

IV. CONSENT AGENDA

CONSENT ITEMS A THROUGH G LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

COUNCILWOMAN SUTTLES MOVED TO APPROVE THE CONSENT AGENDA ITEMS IV-A THROUGH IV-G; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- A. Award bid to Cactus Asphalt, Inc., for the FY2010 Chip Seal and Various Pavement Repairs Project in an amount not to exceed \$870,633.60.
- B. Approve completion of 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.
- C. Approve completion of 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.
- D. Approve completion of 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.
- E. Adopt 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.
- F. Adopt 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).
- G. Approve the Minutes of the Prescott City Council Workshop of May 12, 2009 (1:30 p.m.) and the Workshop of May 12, 2009 (2:00 p.m.).

V. REGULAR AGENDA

- A. Public Hearing 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 the application, noting that the property had been posted, no public comments had been received, and the applicant was present for any questions.

COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

COUNCILWOMAN LOPAS MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION SUBMITTED BY MICHAEL ANGEL BONILLA, APPLICANT FOR THE BDPC, LLC, FOR A SERIES 12, RESTAURANT, LICENSE FOR CHI-TOWN PIZZA, LCOATED AT 1385 IRON SPRINGS ROAD; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- B. Public Hearing 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 the application, noting that the property had been posted, no public comments had been received, and the applicant was present for any questions.

COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

COUNCILMAN ROECKER MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION SUBMITTED BY ELIZABETH ANN MCINTIRE, APPLICATNT FOR PRESCOTT INN & SUITES, FOR A SERIES 11, HOTEL/MOTEL, LICENSE FOR PRESCOTT INN & SUITES LOCATED AT 4499 HIGHWAY 69; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- C.* **Public Hearing and consideration of a liquor license application submitted by Christopher Woods, Applicant for Mustang Café, for a Series 12, Restaurant, license for Mustang Café located at 2020 Clubhouse Drive.**

Ms. Burke reviewed the application, noting that the property had been posted, no public comments had been received, and the applicant was present for any questions. She explained that this item had inadvertently been left off of last week's Study Session agenda.

Councilwoman Suttles asked where “2020” was located. Mr. Woods said that it was next to the Old Clubhouse by the Golf Course at the Airport.

COUNCILMAN LAMERSON MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

COUNCILWOMAN LOPAS MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION SUBMITTED BY CHRISTOPHER WOODS, APPLICANT FOR MUSTANG CAFÉ, FOR A SERIES 12, RESTAURANT, LICENSE FOR MUSTANG CAFÉ LOCATED AT 2020 CLUBHOUSE DRIVE; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- CD*. Adoption of Resolution No. 3966-0972 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona authorizing the City of Prescott to submit an application to apply for Recovery Act (ARRA) – Energy Efficiency and Conservation Formula Block Grant Funds and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Ms Hartmann announced that she was there for the Efficiency Conservation Block Grant that is part of the Department of Energy and Recovery Act of 2009. They appropriate funds for the energy department to give block grants to states, municipalities and tribal folks. This is one of the few block grants that can be used for government facilities. It can actually be used for the City buildings for energy retrofits to the City’s own buildings.

She said that the purpose of the resolution was for authorizing the money be allocated to the City of Prescott, as long as there is a plan submitted. The City Council may refuse the money if they wish to do so.

The resolution authorizes submission will serve in the best interest in the City of Prescott and attached to the staff report was a list of proposed facilities. It is the suggested list for now of ones they will probably do, but there may be other things. Maybe said that perhaps something could be done at the Elks. If there are technical questions Mic Fenech and Ted Hanna were there, and she could answer any grant questions.

Councilman Luzius asked if there was any money that could be used for the sprinkler systems. Ms. Hartmann answered no, but that it could be used to put insulation in the roof.

Councilwoman Suttles said not too long ago they had APS do a study of some of the City buildings and the things that could be done to add to the efficiency. She wondered if that money was looking at those projects.

Mr. Norwood said that the money was looking at some of those projects; primarily HVAC for City Hall which is 47 years old. Some of the real big dollar impacts would be pumps and motors for lift stations or the water production facilities in Chino Valley. It is a combination from that report and an internal review.

COUNCILMAN LUZIUS MOVED TO ADOPT RESOLUTION NO. 3966-0972; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- DE*. Adoption of Ordinance No. 4703-0946 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning an existing sewer and pipeline easement located north of Whipple Street on Canterbury Lane and dedicating an easement for public utilities, ingress and egress and private parking for the benefit of Parcels 1 and 2 as shown on the attached record of survey and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment and dedication.

Scott Tkach said that he was requesting the adoption of an ordinance to abandon an existing easement and dedication of a new easement for public utilities as part of the Boulders at Prescott Development. He said that what was facilitating this request is that the project has proposed HUD funding and HUD is requiring that they abandon the easement as part of a condition for the financing.

COUNCILMAN LAMERSON MOVED TO ADOPT ORDINANCE NO. 4703-0946; SECONDED BY COUNCILWOMAN SUTTLES; PASSED UNANIMOUSLY.

- EF*. 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. (Pulled from Consent Agenda by Councilman Lamerson)

Mr. Woodfill noted that as discussed in past meetings and workshops, they put together the budget for this year. The item before them is the adoption of the Tentative Budget which sets the maximum the budget can be. It also sets the Public Hearing for that final budget, the expenditure limitation and property tax levy. It also establishes the date which Council

will consider setting the tax levy. As well, it authorizes the City Clerk to publish the Tentative Budget in the paper.

If the Council moves forward with this, they would publish and hold the Public Hearing on June 23, 2009, after which time the Council will consider the final budget as well as the other item. On July 14, 2009, they would consider the tax levy. The final budget is proposed to be \$180,818,693 for Fiscal Year 2010, which is actually down almost 30% from the prior year.

Councilman Lamerson said the he pulled this because he wanted his opportunity to state that while he realizes they are setting a cap on the budget, he does not agree with things that are in the budget and does not intend on supporting the budget.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 3963-0960; SECONDED BY COUNCILWOMAN LOPAS; PASSED 6-1 WITH COUNCILMAN LAMERSON CASTING THE DISSENTING VOTE.

- FG***. 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. (Pulled in conjunction with Item IV-E by Councilwoman Suttles)

See below discussion.

- GH***. 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) (Pulled from Consent Agenda by Councilwoman Suttles)

Mr. Guice announced the approval of the amendment site plan for the Bradshaws, noting that it was to add a Phase V to the plan, but keep the number of dwellings to 172, as were approved. Item H relates to a request by Bill Spreitzer who is the owner of this project for an amendment to the existing Development Agreement which would enable them to defer the Impact Fees to be paid at time of Certificate of Occupancy. Last week the City Council wanted an idea of what those fees were, which he then showed to the Council.

He said that Phase I came in at \$287,000, which Mr. Spreitzer has already paid for. Phase II, 52 units, the permit is ready to go out the door

and if that is picked up before the increase in impact fees on July 11, the cost will be \$340,548.

Phases III, IV and V have no building plans. He did his best guess as to number of water meters and came up with \$360,000 for Phase III and a best guess for Phases IV and V totaling about \$198,000. He said that Mr. Spreitzer was there to answer any questions.

Councilwoman Suttles said that she pulled this item and had no problem with G but because they came together they were pulled together. She may like to pull it down to H.

Councilwoman Suttles said that when they are looking at the impact fees, they are substantial. They are in a situation with the possibility of the state of Arizona freezing their Impact Fees. It is just talk, but it is out there. She asked if the fees would get paid if they defer these fees and the state puts a freeze on them.

Mr. Kidd answered that they are all looking at what state is going to do. He wants to look at some language in the motion or in the approval of the agreement that requires that the Impact Fees are due and payable at the time the Development Agreement becomes operative. Payment of those fees would be deferred; however, the obligation is due when operative. What that would do is give them a strong argument. It is difficult to see what the state is going to do. That gives him strong Constitutional argument that there is an existing contract and the state by acting retroactively impairs his ability to contract. He thinks they are good concerns that the City Council should consider.

Councilwoman Suttles said that that is not written in this resolution. She asked if it was possible to rewrite it. She wants it in the public record as to what the fees were. She was sure there will be another developer coming in. She is uncomfortable as to the length of time it takes to get paid.

Mr. Kidd thought there was some urgency of getting this underway. If he wanted to look at suggested staff motion, he could propose and amendment to that and direct legal counsel to put language in the Development Agreement that provides for the application applicability of the Impact Fees at the operative date of the Development Agreement, authorizing the deferral of payment at time of building permits.

Mayor Wilson said that they should find out if Mr. Spreitzer is amenable to that amendment.

Mr. Spreitzer, 4745 N. 7 St., Phoenix, said that it was acceptable to him.

Councilwoman Suttles asked if the next builder comes with a project they would be looked at individually or if this would set precedence.

Mr. Guice said that the way the statute was amended, the Council can do the Impact Fee deferrals which can be done via a Development Agreement again. The staff is suggesting that this is a good incentive.

Councilwoman Suttles said that she would like to get G done, because H was the issue.

COUNCILWOMAN SUTTLES MOVED TO APPROVE THE AMENDED SITE PLAN FOR THE BRADSHAW; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

Mayor Wilson asked if they were comfortable with Item H as verbalized by the City Attorney. Councilman Lamerson said that he had concerns over something not being in writing. He wanted to make sure that he has it correctly. He wants to make sure that when the language is drafted, the existing taxpayers are not left holding the bag for paying the capacity, as per the Charter, growth pays for growth and it needs to be in Development Agreement that the community is not going to assume the liability of having to pay for it at some point in the future.

Mr. Kidd said that the amendment would be to adopt the Development Agreement following the staff's recommend motion with the following addition that *the City Attorney be required to draft an amendment to the Development Agreement that provides for the applicability of the Impact Fees at the time of the operative date of the agreement and allowing for deferral of the payment of those fees at the time of building permits.*

He said that when they go through the existing agreement it provides for occupancy. Certificates are not provided and occupancy is not allowed until the Impact Fees are paid.

Councilman Luzius said he was not comfortable with writing things down by hand. Regarding the tax extension, it took them three weeks and three meetings to pass something that everyone was comfortable with. He said he would not vote on anything until it is in front of him and printed in black and white. He thinks that if anyone else votes on it under any conditions, they are being remiss. Mr. Kidd said that he could bring it back with the amendments in bold.

Councilman Roecker asked how date critical it was with regard to the state. Mr. Kidd said that he did not know. He did not know if they would pass anything with an emergency clause at this point. The Legislative

Session is in a budget cycle. Most legislation passed would be effective without an emergency clause in September.

Councilman Roecker said that if there is no date critical concern he would agree with Councilman Luzius and wait and see what it looks like next week. Mr. Spreitzer said that they can wait on that.

Mayor Wilson suggested that they table it and try to encapsulate the amended motion for next week.

- HI*. 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 Gardner's. (Pulled from Consent Agenda by Councilwoman Suttles)

Ms. Horton said that she was asked for more information on the proposed purchase of the Gardner property, and she showed some pictures. The purpose of the purchase was always to protect the view shed. They never had any intention of building trails. It is steep, rocky and heavily vegetated. And a ¼ mile away there are existing trails with comparable views. The protection of the view shed was always the purpose and they maintain that today.

The City of Prescott owns the preserve. The purchase of the Gardner property is an opportunity to add acreage and to complete the puzzle by adding the final piece. The property, which is 1.52 acres appraised for \$228,000, the Gardner's would like to sell it to the City and discount by \$48,000 at \$180,000.

Councilman Luzius asked what the initial cost of the preserve was. Ms. Horton said that she recalled \$1.2 million. Councilwoman Suttles said she got a number from the City Manager which was \$1,673,597.69 for 32.03 acres in 2001 which breaks down to \$52,250 an acre.

Councilwoman Suttles said that she had asked to pull this because her feeling is that open space does not need to get into 1.52 acres for a view shed protection. They are in the midst of a financial crisis throughout the City with a lot of different departments. They cannot do business as they have done before. They have to be able to cut down. She was told last week that the Open Space dollars were there and they could purchase that, but she does not know if that is the right thing to do. At this time she cannot vote on it

Mr. Lamerson said that he wanted to thank the Gardner's for their generosity for reducing the asking price. Understanding what the state,

Senate and House are contemplating, along with their revenue generations, he cannot support this.

Councilwoman Lopas said that she was not aware if the citizens knew how Open Space works. She said that sometimes there are key pieces that have been on the wish list for years. Sometimes there are pieces of property that the owners come forward with. Either way they go through the Open Space Acquisition Advisory Committee that is a Mayor Advisory Committee for the City of Prescott. Once they pass mustard with that group, which is not easy, it then goes to City Council for recommendation, which is discussed in an Executive Session. Once that happens, an appraisal and survey is done. She does not think it is fair to string an owner along this far and then not go ahead and purchase the property. She thought that there was a commitment for this as she was disappointed. She said that the economy is not great, but it is the best time to purchase land right now. The Gills, who lived at the bottom of the hill at one time, led this. She does not see a reason not to go forward with it.

Mayor Wilson commented that he has heard all of the arguments regarding state of the economy and feels that the City has done a lot to cut back on the budget. These are not funds that will affect the General Fund, it is from the one cent tax and he supports this. He thinks they should finish off what they started. The committee has looked at a lot of property that they have said no on. This fits the criteria established for Open Space.

Councilman Luzius said that he agreed with Mayor Wilson and Councilwoman Lopas and that is what they have the Open Space Advisory Committee for, to look at these parcels and make an educated decision. They have done their due diligence. He feels that is a very good purchase and they have already spent \$1.7 million to preserve that area. This will complete the package. It is for the quality of life in the town. He would rather see that space preserved than have someone build a monument to themselves out there to take away from the view of Thumb Butte.

Jerry Smith Fornaro, 405 Park Avenue, said that she is normally for Open Space acquisitions. She knows that this piece of property could not be sold at that price in today's economy. She feels very strongly that this is not the right time or place for these things. Prescott is in the middle of an unbelievable downturn. On every street you go to, businesses are going out of business. She knows that the property is not worth this at this time. She is on the advisory committee but she is against it at this time.

Elisabeth Ruffner, 1403 Barranca Dr., said that she could not resist a history lesson. She stated that the protrusion to the west was a piece of

property that the City had to buy because they built a water tank on property they did not own. There was a lot of citizen involvement, and the citizens thought they had an agreement with the property owners. They would retain two lots on the West side of that hill for their own purposes to build. That view shed is not open to anyone except someone who is on Thumb Butte or that side of the hill. The reason they spent so much for that parcel originally is because the agreement they thought they had with the property owners did not work. Somehow between the agreement with the City and attorneys of the owners, they were free to sell. It was giving the City an easement on the rest of it and it turned out they were selling it.

They still have the conviction to protect the view shed. She asked if they wanted another law suit. If someone buys and builds there they have no regulation that would prevent anything within the building code. Mr. Palet was taken to court and he kept his 80 foot tower. She cannot imagine not accepting this offer. She reminded them that they all live on sales tax and without the travelers and visitors that care about the view sheds, sales tax from visitors could go down. She remembers sitting at her dining room table when the Central Arizona Land Trust was organized. There were eight lots, one of which was bulldozed. People around the world were talking about the scar on Thumb Butte. They were able to raise the money to buy one lot. Then the City took over easement and they gave it to them. Then they got the rest of the money to buy the rest of the lots and protected that view shed. She feels that this one is equally important. She does not believe that for the visitors who buy things in this town, the Council cannot turn it down.

Jim Lawrence, 345 High Chapparal Loop, said that he cannot be objective because he was one of the few that was part of the citizens group that tried to put it together. The drive came right after the drive to protect Thumb Butte. Some of the bigger donors had already given so they fell short. When they came around to buy it, it cost them considerably more. He said that Debbie Horton's pictures did good job of showing the view. He said that if they walk outside by the statute they can still see the view they are trying to protect. As they are looking at a tight budget they can look at this to protect view shed or buy somewhere around $\frac{1}{2}$ to $\frac{3}{4}$ of a mile of pavement. They can weigh what they think is best from the standpoint of the citizens.

Thomas Slaback 715 E Goodwin noted that back in the 80's he remembers buying the pseudo stock certificates and giving them as Christmas presents to everyone. This is an important area. It is the icon of Prescott. All the tourists see it; they all see it. They need to preserve this view. They now have something that is really rare. They all say that they need a willing seller. There is a willing seller and they have the money to purchase the property. He has been paying taxes specifically for this type

of purchase. They need to do it now while they have the seller and the money.

Steve Blair, 1802 Northside Drive, said that the reality lesson was that it will cost \$15,000 an acre to maintain that firewise by the City of Prescott—that's a reality lesson. If the City buys the property, they have the responsibility of stewardship to it. They do not have \$1 for maintenance for open space. When they look at the hillside, they talk about preserving view sheds. There are little clusters of houses around the base of Thumb Butte. He would suggest that it would make a beautiful piece of property for someone with a single family house and have a beautiful Open Space area behind them. He said that once again they are going to remove one more piece of property off the tax rolls from the City of Prescott. Every time they take one off, everyone else pays a little bit more. This property was turned down once before by another council and he could not support it if he was sitting behind that dais.

MAYOR WILSON MOVED TO APPROVE 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; AND AUTHORIZE THE MAYOR AND CITY STAFF TO TAKE ALL STEPS NECESSARY TO COMPLETE TH PURCHASE; SECONDED BY COUNCILWOMAN LOPAS.

Councilman Bell asked the Open Space Acquisition Committee if they felt they had negotiated the price down as low as possible. Councilwoman Lopas said that this was offered. They did not go back and ask for less because of the \$48,000 off. Councilman Bell asked if she felt it was a fair price. Councilwoman Lopas replied that in comparison to properties around the preserve and Enchanted Canyon, to get that size, the price is very fair. She felt that it would be listed at \$250,000 to \$275,000 on the market today.

Councilman Bell said that they recognize the situation they are in as far as money. He has agonized over this all week and feels that Joe Gardner has been very gracious for offering the property to them. He sees that it completes that section, and he also said that he does not want to go through another law suit.

MOTION PASSED 4-3 WITH COUNCILWOMAN SUTTLES AND COUNCILMEN LAMERSON AND ROECKER CASTING THE DISSENTING VOTES.

- †J*. Discuss and consider adoption of Resolution No. 3967-0973 - A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona

in support of the League of Arizona Cities and Towns resolution supporting the Honorable Governor Brewer's budget proposal.

Ms. Tucker said that this item was placed on the agenda at the Mayor's request. The League of Arizona Cities and Towns executive committee passed a resolution last week supporting Governor Brewer's Budget Proposal and asked that all cities/towns in Arizona support that resolution with their own resolution.

The Senate and House both passed budgets last week that would be devastating to the City. One of the provisions in one of the budget bills would require the City to give more than \$500,000 of the Vehicle License Tax revenue that the State would normally give to the City to the local school districts. In the league's view it is an abdication of the State's responsibility of the education program. The cities do not have that responsibility and now they are being forced into that role.

Another, more troubling provision of the Legislature's budget is the moratorium on Impact Fees, building codes, and the inability of cities to impose new construction sales tax without the vote of their citizens. She and the League do not see how that helps the state budget. The impacts to Prescott immediately could be \$1.7 million just in water and sewer fees alone. These are projects in the works. They are being reviewed by City departments and are moving forward. They want to be built. In the last four years, the City has averaged nearly \$4 million a year in Impact Fee collections. The 2008 levels were considerably less, due to the slowdown in building, but it was still about \$2.8 million. The moratorium on Impact Fee collection that is in the budget would be a three year moratorium. Even if they only met the 2008 levels they are talking nearly \$8 million of lost revenues.

Other provisions of the impact fee section of the budget would restrict the City's ability to collect Impact Fees once the moratorium was lifted. It would only be for infrastructure and "necessary" services. It would not apply to parks, police cars, positions in the wastewater plant. All of this is a direct attack on the City's ability for local control to say how they want growth to pay for growth.

There are implications on these Impact Fee moratoriums and the non-collection of impact fees. Projects would be deferred. The Governor's proposal does not include those provisions. It is the only proposal that is out there that does not take money from the cities. It does include a temporary sales tax increase of 1%. There is a third budget proposal that is the Democrat's proposal, and they are still pushing their proposal. Their proposal is even worse. It borrows state shared revenues from the

cities for three years and then they will pay it back. That would be a \$6 million hit to the city.

There are no good choices. The Governor's proposal has the least impact to the cities.

Councilman Luizius asked what the chance was for that to become law in the Senate. Ms. Tucker said that currently the Senate is holding those budget bills and not sending them to the Governor. There have been indications that the Governor may veto parts or the entire bill. Ms. Tucker does not know what is happening. There are questions going back and forth on whether the Senate has to send the bills within a time frame. There are negotiations between the Governor and the leadership of House and Senate. At this point they know very little.

Councilman Luzius asked that if they send the letter of endorsement, how they would know that the Governor's tax bill will be passed.

Councilwoman Suttles said that in reading the League's report, it shows that if the 1% sales tax is passed, it would not be distributed to cities and counties. And they plan to put a cap on the HURF funds and those monies would go to DPS for their crime lab. She listened to some comments from Representative Andy Tobin who is taking the other side. His comment was that the Governor's 1% would not cover what she wants to do. It would be more like 1.5%. It would be a three-year tax. So there would be no money to the City of Prescott there. Secondly, there is a possibility of a property tax increase.

Ms. Tucker said that there was a state equalization tax in the Legislature's budget which goes away. In the Governor's budget, it goes away over three years. It is not technically an increase; it just does not go away as quickly.

Councilwoman Suttles does not see a win/win for the City for either one of these. If they back the Governor for her increase in sales tax, that is not helping the City. She wondered if they will not come back in a year for the Impact Fees. They are sweeping funds to try and get back to where they were four or five years ago. She does not agree with what the legislators are doing. They send them down there but they tend to spread themselves out and they are now trying to work for the state. She is not in favor of sending a resolution for the League of Cities and she is not in favor of what legislators are doing. She would like to get to both of the entities as to what they are doing to all of them. She is not in favor of the letter. They have the League Conference in September. Right now she does not believe that the budget has been sent to the Governor. The

Governor is waiting to see what bills they want so she can get support with her one cent. They are in the middle. She sees a no win.

Councilman Bell voiced his main concern from the City of Prescott's standpoint. He feels that they are under no obligation to support the League resolution. He is not happy with either one. He is concerned with $\frac{3}{4}$ of 1% they have decided to put on the ballot in September. If they endorse the Governor, he feels the City's chances of passing that have diminished tremendously. He is not in favor. He thinks that this should be tabled, and they should sit tight.

Councilman Lamerson said that most of this is a crock. He felt that they are being hornswaggled by the Legislature and the Governor. They are charging the residents 8.35% to spend their money. The Governor wants them to go 9.35% for three years. He does not believe her; the same thing with moratorium on Impact Fees. He has been saying that the Impact Fees are the wrong tools to use. It empowers someone else to take away the authority of the duly elected representatives in the community to handle what they need to, and he would not support that. He would not support the Governor or the House. All they want to do is tax them. He wondered if the House sweeps their ability to collect revenue what it would do for the City's opportunity to issue building permits.

Councilman Roecker said that he completely agrees with Councilman Bell. They need to table this. It is unwise for them to take a position. This Governor is going to spend that 1% sales tax right now without knowing if it will pass. There is no talk of eliminating any state government agencies. This is not a good idea. If the Legislature sent something to the Governor that she does not like, she can veto it, and let them fight it out. What they are offering the City, none of it is good. They need to do a better job.

He agrees with Councilman Bell and feels that they are jeopardizing their $\frac{3}{4}$ of 1% - they need that to be extended after 2016. If the state does something to jeopardize that, they are doing a disservice to the City of Prescott.

Mayor Wilson said that the general agreement was to table the motion and let the Legislature fight it out with the Governor. He feels that there are potential letters from individual Council people can send to the representatives.

Councilman Lamerson was not sure that he wanted to table the motion. He wants to tell the League no.

MAYOR WILSON MOVED TO TABLE ACTION; SECONDED BY COUNCILMAN BELL; PASSED 5-2 WITH COUNCILWOMAN SUTTLES AND COUNCILMAN LAMERSON CASTING THE DISSENTING VOTES.

- JK*. Acceptance of a grant from the Department of Homeland Security Transportation Security Administration for a four-year Law Enforcement Officer Reimbursement Program Cooperative Agreement grant in the amount not to exceed \$467,784.00.

Mr. Vardiman said the City of Prescott finally got word from the Transportation and Security Administration that they were awarded the grant for providing police officers present at the security screening checkpoint at the airport. They have until June 19, 2009 to have this approved, accepted and back to them. It does not leave them much time. It is a four year agreement which begins on October 1, of 2008 and runs through September 30, 2012. It is for \$467,784.00 for the four year period. It breaks down to \$116,946.00 per year to help cover cost of providing officers.

Mayor Wilson asked the Chief if he got the money that he wanted. Chief Oaks said that it was a Federal Regulation depending on what category of airport they have. The maximum amount allowable under the Federal Regulations is \$26.77/hr. which will not pay salary and benefits of a full time Prescott police officer. They are going to try and be creative and solicit part-time police officers, as long as someone is certified. If they can find that talent they can do it with the money. Even if they cannot, the TSA could have forced them, by their decision, to have police officers present at the City's own expense. This is a half of a million dollars of their money to help the City do what they could have forced the City to do anyway.

Councilwoman Suttles asked what they do at the end of the four years. Chief Oaks said that they have the inception date to be October 1, 2008. By the time they wrap up, it will be a three-year grant. At any time the TSA could have said that they are required to have officers there during commercial flights. The same thing is going to happen at the end of the three year period. The City will be expected to provide those officers.

Councilwoman Suttles asked what if they get to the point where they are not having to do what they are having to do right now. Chief Oaks said that the money would go away or be allocated somewhere else. The agreement is that the TSA pays the City for the hours an officer is present. If one of the airlines went away and the hours were reduced to 30 they would only be reimbursed for that.

Councilman Lamerson asked where the TSA gets their money from. Chief Oaks said that it is really the City's money and that he made a mistake by saying that. The good news is that it is coming back to the City.

Councilman Bell asked how many TSA people were out there now. Mr. Vardiman said that depending on time of day and the flights, they run from 3-6 per flight time, depending on number of passengers.

Councilman Bell had a lady passenger tell him that she was the only one boarding and there were three TSA people. He felt that there were more government people than passengers and he does not know why we put up with it.

COUNCILMAN BELL MOVED TO ACCEPT THE GRANT FROM THE DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, FOR A FOUR-YEAR LAW ENFORCEMENT OFFICER REIMBURSEMENT PROGRAM COOPERATIVE AGREEMENT GRANT IN THE AMOUNT NOT TO EXCEED \$467,784.00; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.

VI. ADJOURNMENT

There being no further business to be brought before the Council, the Regular Voting Meeting of the Prescott City Council held on June 9, 2009, adjourned at 4:52 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Voting Meeting of the City Council of the City of Prescott, Arizona held on the 9th day of June, 2009. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2009.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk