

PRESCOTT CITY COUNCIL REGULAR VOTING MEETING A G E N D A

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, AUGUST 31, 2010
3:00 P.M.**

**Council Chambers
201 South Cortez Street
Prescott, Arizona 86303
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its **Regular Voting Meeting** pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

- ◆ **CALL TO ORDER**
- ◆ **INTRODUCTIONS**
- ◆ **INVOCATION:** Pastor Lloyd Teeter, Church of Nazarene
- ◆ **PLEDGE OF ALLEGIANCE:** Councilman Lamerson
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Kuykendall	
Councilman Blair	Councilwoman Linn
Councilman Hanna	Councilwoman Lopas
Councilman Lamerson	Councilwoman Suttles

- ◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

I. CONSENT AGENDA

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

- A. [Adoption of Ordinance No. 4758-1109 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, abandoning a portion of an existing easement, Exhibit “B” and accepting a grant of a new corrected water line easement from the Bennett’s with the right of ingress and egress to and from the same across the property as shown and described on Exhibit “A” water line easement and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment and acceptance of the new easement.](#)

- B. Approval of Comprehensive Sign Package for Centerpointe Professional Suites, located at 2001 Excellence Way, subject to the conditions outlined in the Council Agenda Memo dated 08/24/2010. (CC10-002)
- C. Approval of the minutes of the Prescott City Council Workshop of July 13, 2010; the Workshop of July 20, 2010; the Special Meeting (Executive Session) of August 3, 2010; the Workshop of August 3, 2010; the Regular Voting Meeting of August 10, 2010, and the Workshop of August 17, 2010.

II. REGULAR AGENDA

- A. Public Hearing and approval of the Analysis of Impediments to Fair Housing as associated with the City's Community Development Block Grant (CDBG) Program.
- B. Approval of agreement with Mountain Bike America, dba Epic Rides, in an amount not to exceed \$30,000.00 cash and in-kind services.
- C. Approval of Special Use Permit to Sell Automobiles and Scooters with Outdoor Display, located 613 Miller Valley Rd., APN 113-97-012, Zoning: Business General, Owner: Orville and Helen Heuer Trust, Applicant: Mark Tereau, SUP10-001.
- D. Adoption of Ordinance No. 4759-1110 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona amending Title III, Chapter 10, Section 8, *Water Conservation Code: Incentive Program*, of the Prescott City Code.
- E. Alarm Ordinance.
 - 1. Adoption of Resolution No. 4045-1115 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, declaring as a public record that certain document filed with the City Clerk and entitled "*Chapter 5-6, Alarm Systems, of the Prescott City Code.*"
 - 2. Adoption of Ordinance No. 4760-1111 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona amending the Prescott City Code by deleting Chapter 5-6, *Installation of Police Alarm Equipment and Prohibition of Telephone Alarm Systems*, and replacing it by adopting by reference that certain document entitled "*Chapter 5-6, Alarm Systems, of the Prescott City Code,*" made a public record by Resolution No. 4045-1115; and setting penalties therefore.
- F. Authorization to staff to publish necessary Notice to Exchange Real Property, and work with Arizona Public Service Company on necessary steps to complete exchange of property.
- G. Approval for the Prescott Fire Department to apply for a \$210,000.00 supplemental fund Arizona Fuel Hazard Grant.

- H. Adoption of Resolution No. 4044-1114 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with the Yavapai County Flood Control District (YCFCD) and accepting funding in FY11 for costs associated with drainage improvement projects located in the Yavapai County portion of the City and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

- I. Debt Issuance through the Water Infrastructure Finance Authority (WIFA):
 - 1. Adoption of Resolution No. 4040-1110 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Virginia Street/Penn Alley)

 - 2. Adoption of Resolution No. 4041-1111 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Airport Wastewater Treatment Plant Upgrades)

 - 3. Adoption of Resolution No. 4042-1112 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Drinking Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Small Water Mains Projects)

 - 4. Adoption of Resolution No. 4043-1113 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to authorize the application for a Clean Water State Revolving Fund Loan from the Water Infrastructure Finance Authority of Arizona (WIFA). (Sundog Filter Replacement & Denitrification Project)

- J. Approval to Suspend portions of Rule 4, Council Meetings, of the Rules of Procedure of the Prescott City Council, adopted by Resolution No. 4001-1031, regarding Public Comment items.

III. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on _____ at ____
_____m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Elizabeth A. Burke, MMC, City Clerk

COUNCIL AGENDA MEMO – August 31, 2010
DEPARTMENT: Public Works
AGENDA ITEM: Adoption of Ordinance No. 4758-1109 to abandon a portion of an existing Easement and accept a corrected Water Line Easement.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	<i>08/20/10</i>

Item Summary

This item is to abandon a portion of an incorrect easement and accept a grant of a new water line easement from the Bennett Family.

Background

The Bennett Family is proposing to do a lot split on a parcel they own located at 1895 Paradise Lane, APN 116-06-118A. During the review process it was discovered the existing water main that extends through Bennett's property did not follow the recorded easement. As a result, the water line was Blue-Staked and City Water Operations "pot-holed" the line to determine the correct location. The Bennett's retained Kelley/Wise Engineering to prepare a new Map and Legal Description, Exhibit "A" for the correct location of a new water line easement.

The Bennett's have signed a new easement (attached) to be approved and recorded as a part of this item. Attached is Exhibit "B", the existing recorded easement, Book 2817, Pages 470, 471 & 472 to be abandoned. The abandonment will only occur through the Bennett property because the water line extends south to the adjoining property.

There is no cost to the City for the new easement except for recording fees.

- Attachments**
- Location Map
 - Exhibit "A" Map and Legal Description for new Easement
 - Exhibit "B" existing Easement to be abandoned
 - New Easement signed by the Bennett's
 - Ordinance for abandoning and accepting the new Easement

Recommended Action: MOVE to adopt Ordinance No. 4758-1109.

ORDINANCE NO. 4758-1109

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ABANDONING A PORTION OF AN EXISTING EASEMENT, EXHIBIT "B" AND ACCEPTING A GRANT OF A NEW CORRECTED WATER LINE EASEMENT FROM THE BENNETT'S WITH THE RIGHT OF INGRESS AND EGRESS TO AND FROM THE SAME ACROSS THE PROPERTY AS SHOWN AND DESCRIBED ON EXHIBIT "A" WATER LINE EASEMENT AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SUCH ABANDONMENT AND ACCEPTANCE OF THE NEW EASEMENT

RECITALS:

WHEREAS, the City Council of the City of Prescott has determined that abandoning a portion of an existing incorrect easement Exhibit "B", Book 2817, Pages 470 & 471 only through the Bennett's property and accepting a new corrected water line easement from the Bennett's as shown and described in Exhibit "A" is in the best interest of the City; and

WHEREAS, the City Council of the City of Prescott wishes to abandon that portion of an existing incorrect easement as described in Exhibit "B" and accept a new corrected water line easement as shown and described in Exhibit "A".

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT a certain portion of an existing easement recorded in Book 2817, Pages 470 & 471 and as described in Exhibit "B" is incorrect and that portion of the easement crossing through the Bennett's property, current APN 116-08-118A is no longer necessary for public use and the same is hereby vacated and abandoned.

SECTION 2. THAT A. Roy and Donna L. Bennett are granting a new corrected water line easement as shown and described in Exhibit "A" attached hereto and made a part hereof, is hereby accepted.

SECTION 3. THAT upon approval by the City Council, the Mayor and staff are hereby authorized to record the Water Line Easement in the Office of the Yavapai County Recorder, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 31st day of August, 2010.

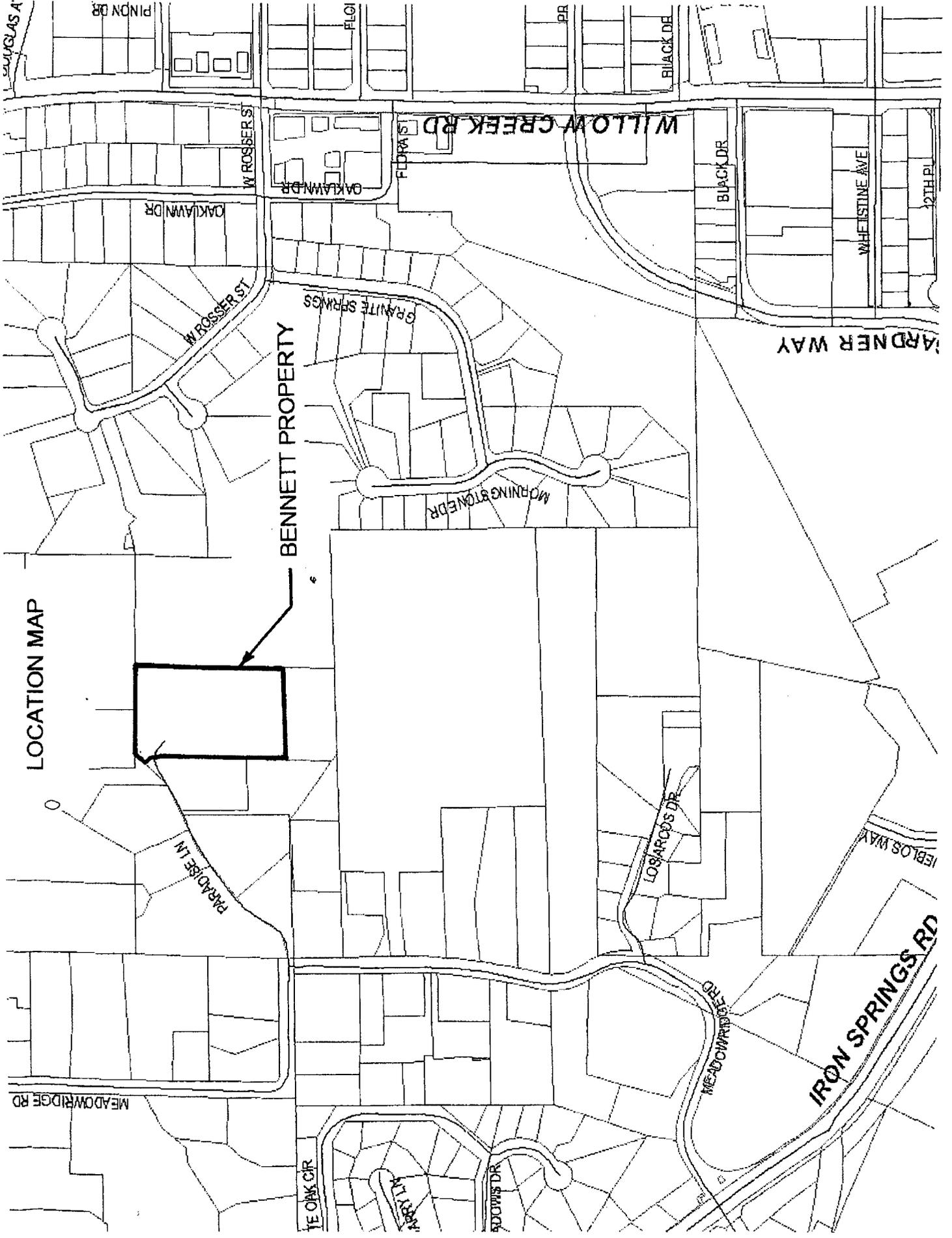
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



LOCATION MAP

BENNETT PROPERTY

IRON SPRINGS RD

When recorded, mail to:
City of Prescott
City Clerk
P. O. Box 2059
Prescott, AZ 86302

WATER LINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, by each party to the other, A. ROY BENNETT & DONNA L. BENNETT, HUSBAND AND WIFE, hereinafter called the "Grantors", hereby grant to the City of Prescott, hereinafter referred to as the "Grantee", its employees, agents, and designees, the right of ingress and egress over and through the following described property, for public water line utility purposes, to use and construct the same, together with the right to construct, maintain and place any and water line utilities therein, over and through said property, said property more particularly described on Exhibits "A" .

This easement shall run with the land, and shall be perpetual unless earlier abandoned or vacated by the Grantee.

Grantor covenants and agrees not to perform any construction, excavation, filling or alteration upon or within said easement, or perform any modifications to said property without the prior written permission of the Grantee.

Grantor agrees not to construct any permanent building upon said easement.

IN WITNESS WHEREOF, the Grantor has herein unto set his hand this 4th day of August, 2010.

GRANTOR:
By: A. ROY BENNETT

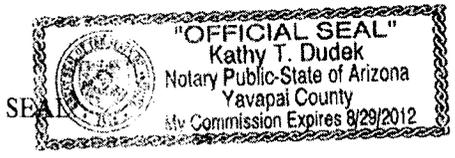
Signature A. Roy Bennett
Name: A. ROY BENNETT

GRANTOR:
By: DONNA L. BENNETT

Signature Donna L. Bennett
Name: DONNA L. BENNETT

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

SUBSCRIBED AND SWORN to before me this 4th day of August, 2010, by
A. Roy Bennett personally known to me or proven to
me on the basis of satisfactory evidence to be the person whose name is subscribed to within the
instrument, and acknowledged that he/she/they executed it.

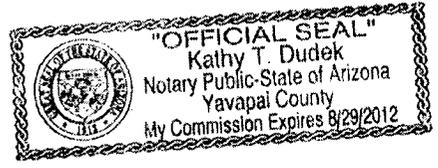


Kathy T. Dudek
Notary Public

My Commission Expires:
8-29-2012

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

SUBSCRIBED AND SWORN to before me this 4th day of August, 2010, by
DONNA L BENNETT personally known to me or proven to
me on the basis of satisfactory evidence to be the person whose name is subscribed to within the
instrument, and acknowledged that he/she/they executed it.



Kathy T. Dudek
Notary Public

SEAL:

My Commission Expires:
8-29-2012

EXHIBIT A

That portion of the South Half of Section 20, Township 14 North, Range 2 West, Gila and Salt River Meridian, City of Prescott, Yavapai County, Arizona, being a portion of that parcel described as PARCEL 1 as recorded in Book 3572 of Official Records at Page 463, records of Yavapai County, Arizona, a strip of land 20.00 feet in width, the sidelines of which lie 10.00 feet on each side of the following described centerline:

COMMENCING at the south quarter corner of said Section 20, marked with a found ½-inch rebar with cap "LS13941";

thence North 88°42'51" East, along the Basis of Bearing, a distance of 624.87 feet to the southwest corner of said PARCEL 1, marked with a found ½-inch rebar with cap "LS5362";

thence North 00°34'55" East (recorded North 00°40' East, 434.35 feet) along the west line of said PARCEL 1, a distance of 434.62 feet to an angle point in said west line, marked with a found ½-inch rebar with an illegible cap located beneath an asphalt drive;

thence North 44°11'22" West (recorded North 44°04' West, 31.9 feet) along the west line of said PARCEL 1, a distance of 31.84 feet to an angle point in said west line, marked with a found 3/8-inch rebar with cap "LS23383";

thence North 44°21'05 East (recorded North 44°30' East) along the west line of said PARCEL 1, a distance of 22.42 feet to the TRUE POINT OF BEGINNING;

thence South 46°06'20" East a distance of 87.36 feet to a point;

thence South 73°10'22" East a distance of 97.74 feet to a point;

thence South 28°08'51" East a distance of 129.44 feet to a point;

thence South 68°14'30" West a distance of 37.27 feet to a point;

thence South 16°20'10" East a distance of 112.41 feet to a point;

thence South 35°18'21" East a distance of 22.95 feet to a point, hereafter referred to as POINT A;

thence South 35°18'21" East a distance of 9.06 feet to a point;

thence South 09°48'34" East a distance of 36.76 feet to a point;

thence South 05°20'40" East a distance of 81.18 feet to a POINT OF TERMINATION, a point on the south line of said PARCEL 1, from which point said southwest corner of PARCEL 1 bears South 88°41'25" West a distance of 244.85 feet;

The sidelines of this strip to be lengthened or shortened as necessary to terminate on the northwesterly and southerly lines of said PARCEL 1.

AND from the aforementioned POINT A;

Thence South 54°41'39" West a distance of 18.65 feet to a POINT OF TERMINATION.

Containing 12,453 square feet, more or less.

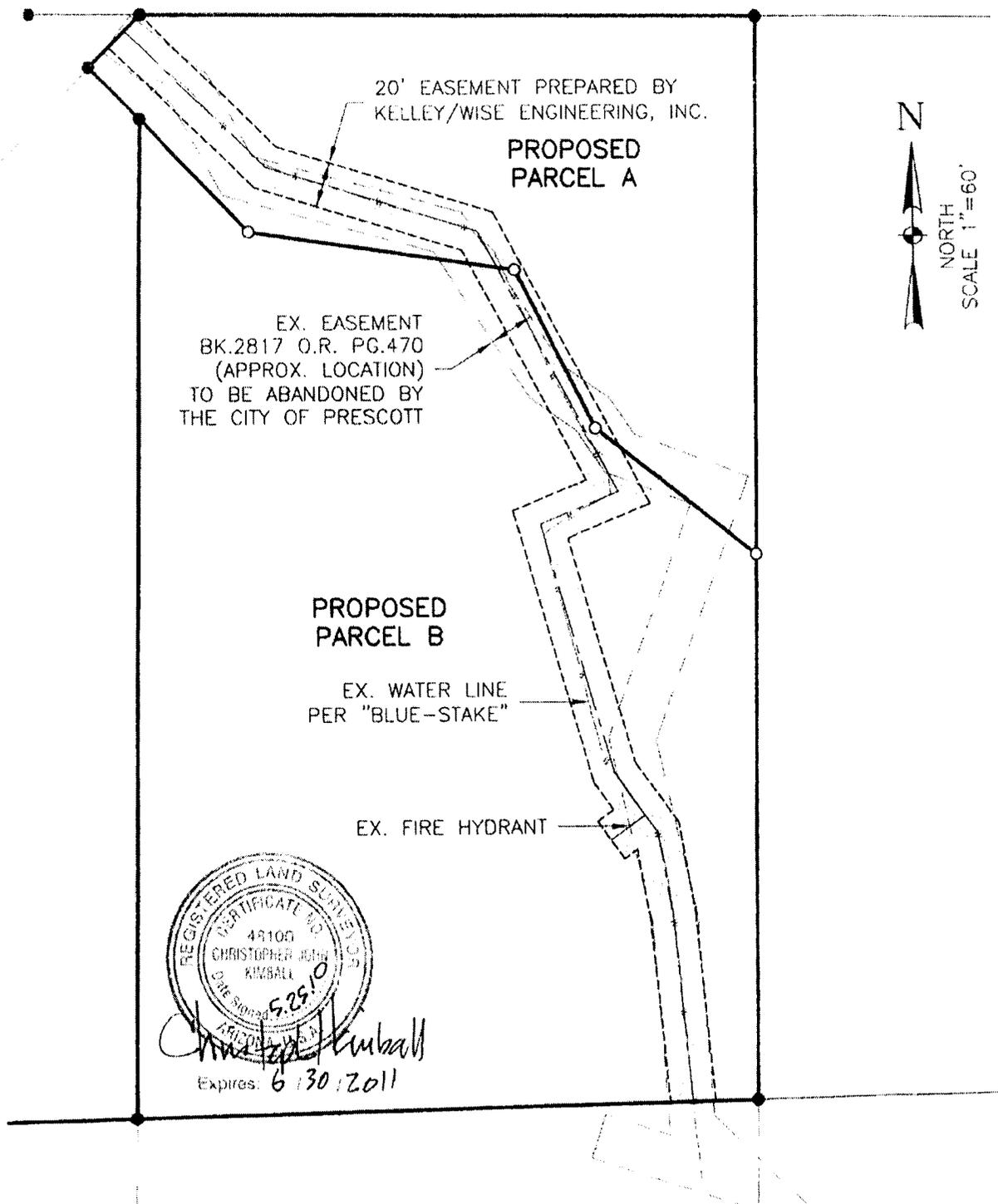


EXHIBIT
SHOWING CERTAIN EASEMENTS
APN 116-06-118A
CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA

MAY 25, 2010
JOB NO. 08-067
KELLEY/WISE ENGINEERING, INC.
146 GROVE AVENUE
PRESCOTT, AZ. 86301
(928) 771-1730

EXHIBIT "B"



INSTRUMENT # 9424325
OFFICIAL RECORDS OF
YAVAPAI COUNTY
MARGO W. CARSON

REQUEST OF:
CITY OF PRESCOTT
DATE: 04/21/94 TIME: 13:20
FEE: 3.00 SC: PT:
BOOK 2817 PAGE 470 PAGES: 004



EASEMENT

KNOW BY ALL MEN BY THESE PRESENTS:

THAT for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration paid by the City of Prescott, a municipal corporation of the State of Arizona, hereinafter called "City", the receipt of said sum being hereby acknowledged, the grantors hereinafter named hereby grant unto the City, its successors, or assigns the right to lay, maintain, operate, relay, and remove at any time a water pipe line with the right of ingress and egress to and from the same across the property of grantors located in Yavapai County, Arizona, along the line and course hereinafter particularly described. (See Attached Exhibit "A").

Grantors agree not to construct any buildings or other improvements over and above the main or line.

This covenant will run with the title to land through which this easement runs.

It is agreed that, in the event the City abandons the use of said line, this easement shall cease, and the City shall have no further right, title, or interest in the above premises by virtue of this easement.

IN WITNESS WHEREOF, we have hereunto set our hands (and seal) this 21st day of February, 1994.

Signed: Roy Bennett
Grantor

Signed: Anna Bennett
Grantor

STATE OF ARIZONA)
County of Yavapai) ss.

The foregoing easement was acknowledged before me this 21st day of February, 1994, by Roy Bennett and Anna Bennett

Dorothy Sudder
Notary Public

SEAL

(SEAL)

My Commission Expires:
My Commission Expires Jan. 29, 1996

BOOK 2817 PAGE 470

EXHIBIT A

Brad Nelson Easement

A 20 foot wide easement for Ingress and Egress located in the Southwest Quarter of the Southeast Quarter of Section 20 and the Northwest Quarter of the Northeast Quarter of Section 29, Township 14 North, Range 2 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, whose centerline is described as follows:

BEGINNING at the Northwest corner of that certain parcel as recorded in Book 1759, Page 292, Yavapai County Records:

Thence South 77 degrees 26 minutes 30 seconds West, a distance of 71.96 feet to the TRUE POINT OF BEGINNING;

Thence South 71 degrees 56 minutes 49 seconds East, 71.54 feet to a point;

Thence North 45 degrees 9 minutes 29 seconds West, 37.92 feet to a point;

Thence North 3 degrees 54 minutes 3 seconds West, 90.00 feet to a point; ✓

Thence North 12 degrees 50 minutes 10 seconds West, 80.29 feet to a point; ✓

Thence North 20 degrees 14 minutes 20 seconds East, 114.81 feet to a point;

Thence North 69 degrees 43 minutes 08 seconds West, 46.55 feet to a point;

Thence North 34 degrees 43 minutes 36 seconds West, 20.66 feet to a point;

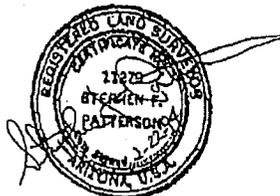
Thence North 55 degrees 16 minutes 24 seconds West, 25.00 feet to a point;

Thence North 32 degrees 54 minutes 31 seconds West, 78.48 feet to a point;

Thence North 75 degrees 3 minutes 12 seconds West, 96.53 feet to a point;

Thence North 28 degrees 30 minutes 56 seconds West, 43.71 feet to a point;

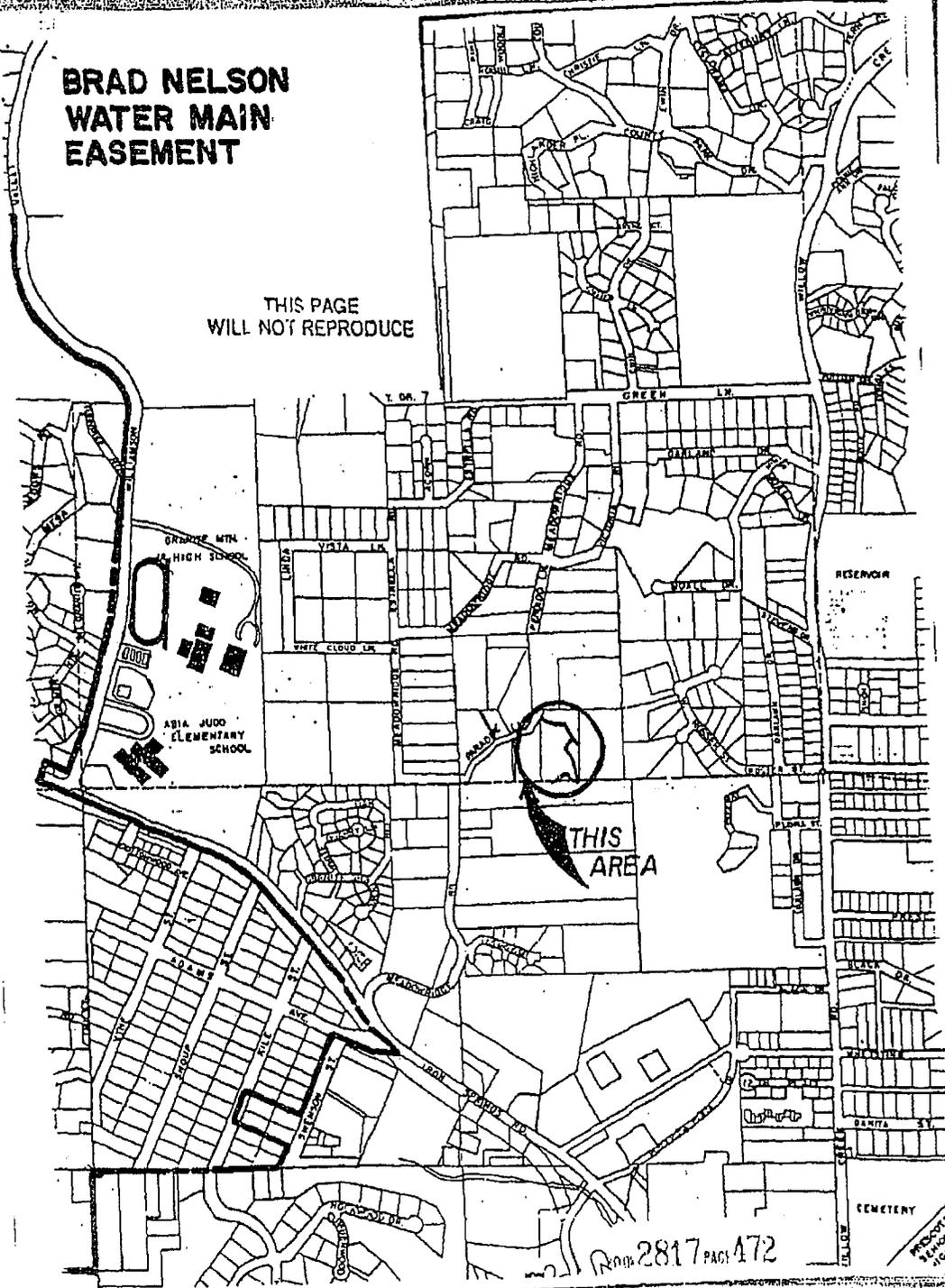
Thence North 53 degrees 10 minutes 35 seconds West, 40.77 feet to the TRUE POINT OF TERMINATION, from which the TRUE POINT OF BEGINNING bears South 23 degrees 12 minutes 5 seconds East, 496.33 feet.



BOOK 2817 PAGE 471

BRAD NELSON WATER MAIN EASEMENT

THIS PAGE
WILL NOT REPRODUCE



COUNCIL AGENDA MEMO – August 31, 2010
DEPARTMENT: Community Development
AGENDA ITEM: Comprehensive Sign Package for Centerpointe Professional Suites. Located at 2001 Excellence Way, Zoning: IL Owner: Brian Schilperoort, M.D., Centerpointe Professional Suites, LLC, Agent: Perry Weiweck, A&B Signs, APN: 102-06-210C, CC10-002.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood 	08/28/10

REQUEST:

Centerpointe Professional Suites is a multi-tenant, multi-building commercial office complex, located in the Centerpointe West Medical Center (east of the Potter’s House Church). The property owner is requesting multiple freestanding signs in exchange for no wall signage. The initial phase is a newly constructed 2 story building. The applicant proposes the placement of 2 freestanding center identification signs in addition to 2 existing freestanding building directory signs. All 4 signs total 51 square feet. The directory signs are located at the lower level building entrance and the upper level parking entryway.

The applicant is proposing similar freestanding signage for up to 4 future buildings, which have not yet been designed. Signage for these future phases are requested to be administratively approved to allow for variables such as building design verses appropriate sign scale. All future signage shall be of a similar design and character.

BACKGROUND:

The current sign code will allow for 2 freestanding center identification signs placed at least 100 feet apart with a maximum face of 32 square feet for each sign. Each tenant is allowed 40 to 80 square feet of wall signage (Section 6.12.5.A). One directory sign is allowed per building limited to 6 square feet in size. The applicant’s increased number of freestanding signs and the larger size of the directories require an approved Comprehensive Sign Plan.

The LDC provides for Comprehensive Sign Plans as an option for property owners of multi-tenant or multi-service commercial development. The LDC provides flexibility for innovative sign design, a greater number of signs and greater sign area in exchange for higher quality signage or other considerations (Section 6.12.6.A). A Comprehensive Sign Plan was requested by the applicant to preserve the aesthetic nature and architecture of each building.

PROPOSED SIGN DESIGN:

The lower building directory is 14.5 square feet. The upper building directory is 11.25 square feet. The two directory signs exhibit the suite number and tenant name.

The lower center identification sign is 23.33 square feet. The sign lettering will be a gold tone with a black background. The upper center identification sign is 6.27 square feet consisting of black lettering on an existing stem wall.

PLANNING COMMISSION REVIEW AND RECOMMENDATION:

The Commission reviewed the proposed Plan at its meetings on July 29 and August 12. The Commission expressed the desirability of the trade between wall signage for freestanding signage resulting in less overall sign area. The discussion concluded with a unanimous vote (5 to 0 with Menser and Gardner absent) to forward a positive recommendation to Council with the conditions as suggested below.

NEIGHBORHOOD RESPONSE:

No public response has been received by staff regarding this proposal.

FINDINGS:

The applicant has met the criteria required for a Comprehensive Sign Plan. Section 6.12.6.C of the Sign Code requires that a Comprehensive Sign Plan must provide signs that are a similar type and function with consistent size, lettering, color & material, or, that the request results in improved sign designs in exchange for otherwise allowed signage size and number of signs. The proposal appears to meet the needs of the applicant, as well as eliminate allowed, but unnecessary wall signage.

Attachments:

- Vicinity and Zoning Map
- Letter of Intent
- Sign Inventory and Site Plan
- Elevations (2 sheets)

Recommended Action: MOVE to approve CC10-002 subject to the following stipulations:

1. Any additional freestanding signage for future construction, including minor changes or modifications allowed under the sign code may be approved administratively. All other requests, including wall signage shall require an approved amendment to the Comprehensive Sign Plan.
2. All future signage must be of similar type and function with consistent size, lettering, color & material.



SOUTHWEST SURGERY

OF YAVAPAI COUNTY, P.C.

BRIAN SCHILPEROORT, M.D.
Diplomate American Board of Surgery
Fellow American College of Surgeons

July 6, 2010

To Whom It May Concern:

Centerpointe Professional Suites is being designed as a multi building, multi-tenant complex. It will be composed of buildings with upper and lower levels with drive up access to both the upper level and the lower level suites.

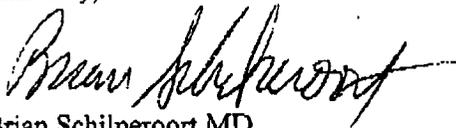
The purpose of this comprehensive sign plan is to allow for a main I.D. sign on the street level to identify the complex as Centerpointe Professional Suites, with separate tenant directory signage for the upper and lower levels, and a separate tenant sign for a future building on the north side of the cul de sac.

The current sign code for a center allows for 40 sq ft of wall signage *per tenant*. At its final build out, Centerpointe Professional Suites may have as many as 16 separate tenants, which according to the current sign code would allow for 640 sq ft of signage on the buildings. If the purpose of the sign code is to improve the aesthetics of the city, all one has to do is to look at the building on Whipple Street across from Sonic, to realize that multiple signs on a building do not enhance Prescott's aesthetics.

No building signage is being considered on any of the buildings at Centerpointe Professional Suites. We are initially proposing one monument sign with two tenant directories, one for the upper level suites and one for the lower level suites. Additional monument signage and tenant directories may be requested for consideration of P&Z as future buildings are erected.

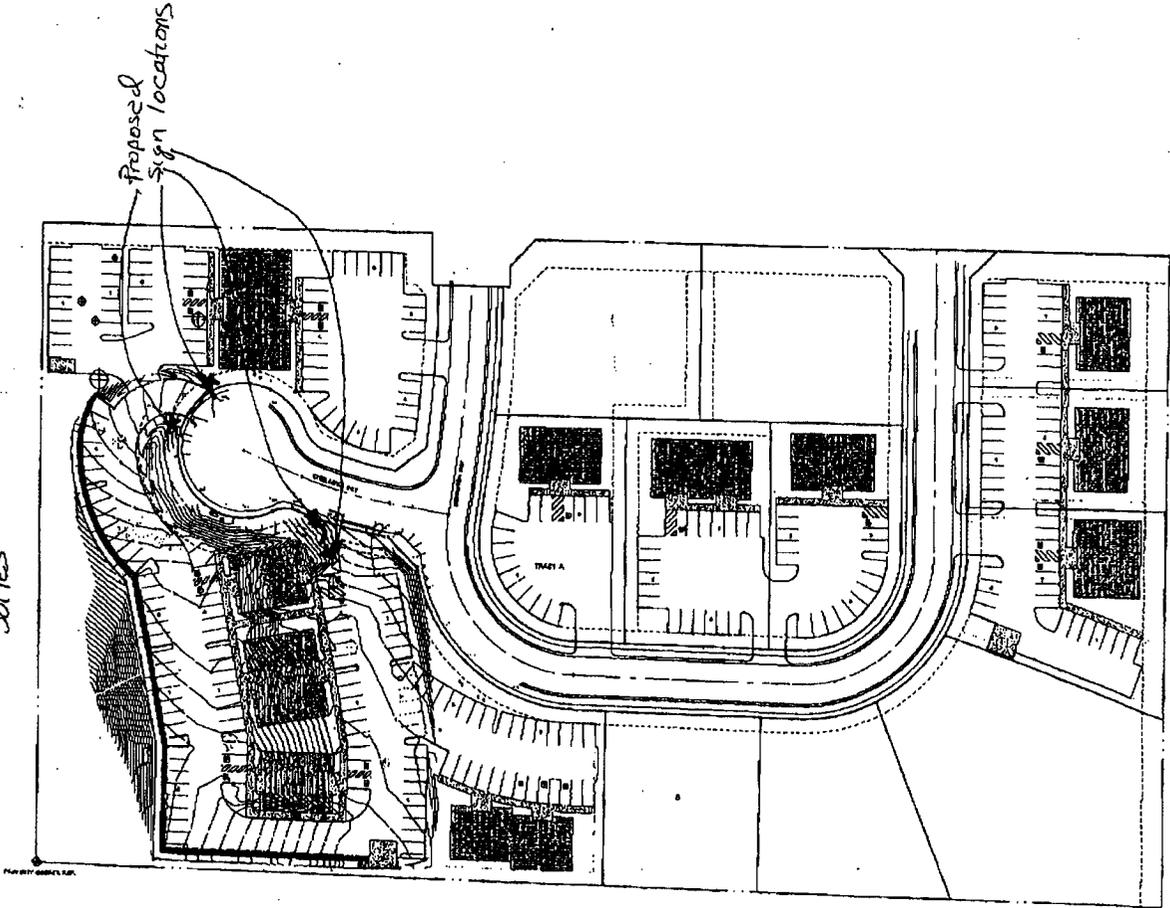
Thank you very much for your consideration of this request.

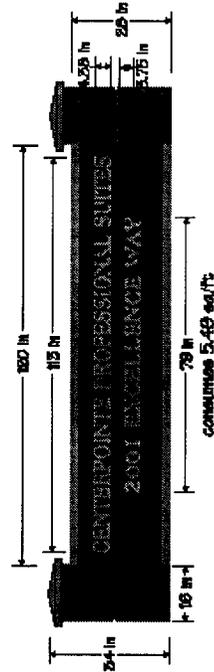
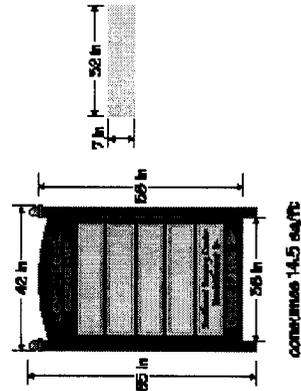
Sincerely,



Brian Schilperoort MD

Centerpointe
Professional
Suites

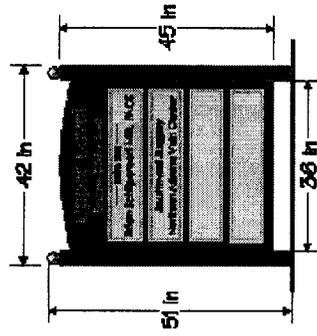
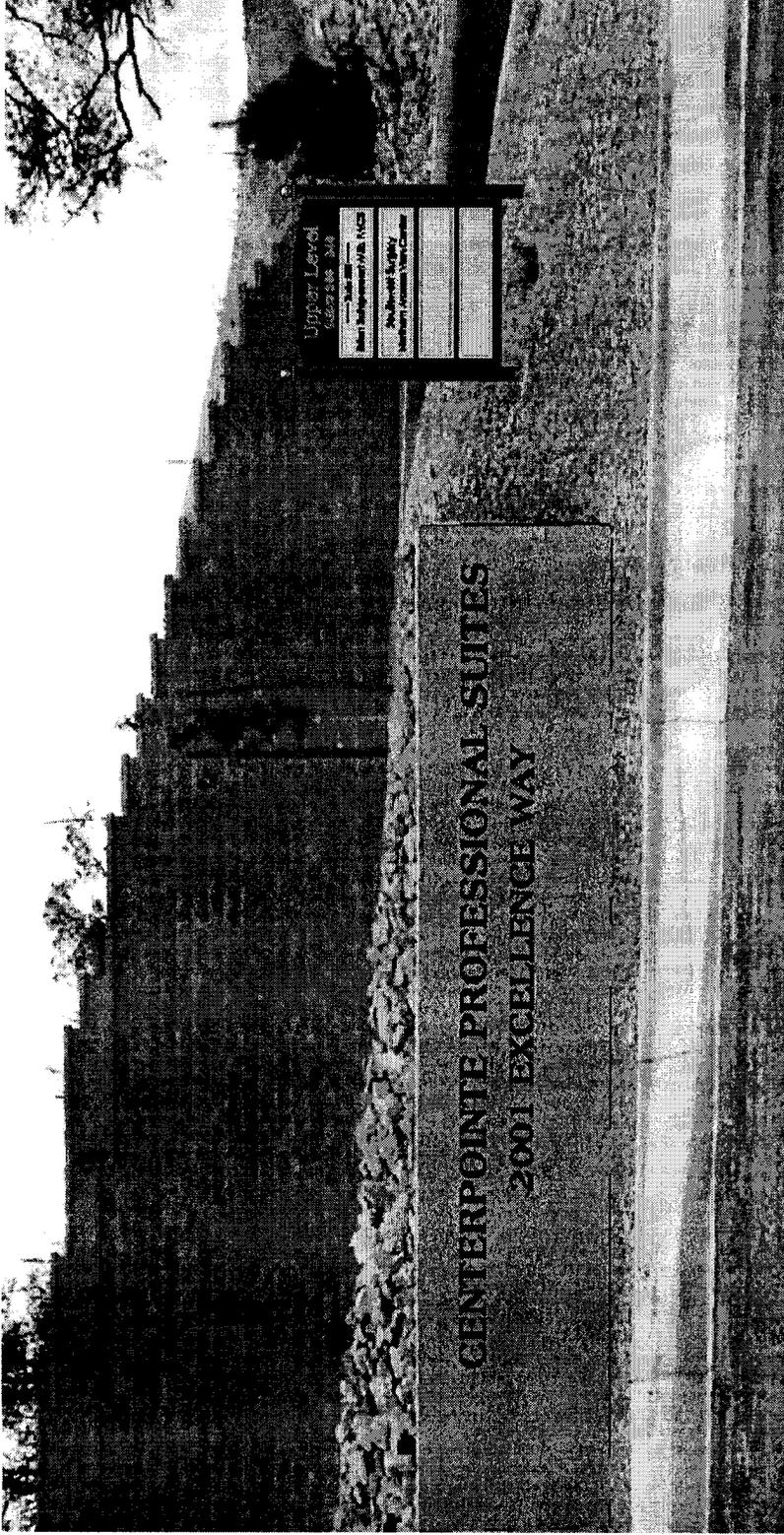




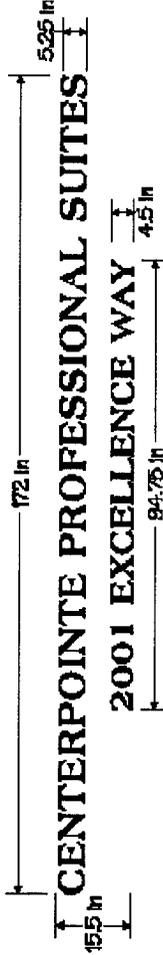
THIS ARTWORK HAS BEEN CREATED BY A&B SIGN COMPANY TO ASSIST YOU IN VISUALIZING OUR PROPOSAL. THESE DESIGNS ARE EXCLUSIVE PROPERTY OF A&B SIGN COMPANY AND ARE NOT TO BE REPRODUCED, COPIED, EMAILED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF A&B SIGN COMPANY.

Office 928 445-6995	COMPANY: Southwest Surgery Center	EMAIL: alphian@northlink.com alphian@calbleone.net
Fax 928 776-4429	CLIENT: Brian Schilperoord	FILE: Southwest Surgery Center
sbalgn@qwest.net	PHONE: 445-8346	Origin DATE: 5-17-10
691 North 6th street Prescott, AZ 86301	APPROVAL:	Revise DATE:
		DATE:
		Design by SP

A&B Signs
SINCE 1981
Prescott's Only Full Service Sign Shop
AZ Licensed Contractor # 070810



consumes 11.25 sq/ft.



consumes 9.23 sq/ft.

Signs & More
 SINCE 1981
 Prescott's Only Full Service Sign Shop
 AZ. Licensed Contractor # 0700110

Office 928 445-6995
 Fax 928 776-4429
 absign@qwest.net
 601 North 6th street
 Prescott, AZ 86301

THIS ARTWORK HAS BEEN CREATED BY ABB SIGN COMPANY TO ASSIST YOU IN VISUALIZING OUR PROPOSAL. THESE DESIGNS ARE EXCLUSIVE PROPERTY OF ABB SIGN COMPANY AND ARE NOT TO BE REPRODUCED, COPIED, EMULATED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF ABB SIGN COMPANY.

COMPANY: Southwest Surgery Center	EMAIL: abrian@northlink.com abrian@cablcon.com
CLIENT: Brian Schilperoot	FILE: Southwest Surgery Center
PHONE: 445-8346	Origin DATE: 5-17-10
APPROVAL:	DATE: Design by SP

PRESCOTT CITY COUNCIL
 WORKSHOP
 TUESDAY, JULY 13, 2010
 PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Workshop held on July 13, 2010 in the City Hall Council Chambers, 201 South Cortez, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the Workshop to order at 2:04 p.m.

◆ **ROLL CALL:**

PRESENT:

Mayor Kuykendall
 Councilman Hanna
 Councilman Lamerson
 Councilwoman Linn
 Councilwoman Suttles

ABSENT:

Councilman Blair
 Councilwoman Lopas

1. Presentation on Watson and Willow Lakes re overview/status of work plan addressing water quality, supply and recreation (requested by Water Issues Committee and presentation to be made by citizen participants).

Councilman Lamerson, serving as Chairman of the Water Issues Committee, said that their committee has been meeting with members of the private sector to discuss water issues. One of the priorities discussed is the lakes and he then turned it over to Gary Worob to make a presentation.

Mr. Worob introduced Chuck Budinger and Michael Byrd, and stated that Gordon Bean was unable to attend the meeting today. Also, he said that Sean Worob would be speaking on his behalf later in the meeting.

Mr. Worob said that in 1998 the City passed a bond to acquire the real property and water rights associated with Watson and Willow Lakes. A steering committee was formed to assist with the design of a Master Plan for the Lakes. One of the people responsible for the acquisition and planning was Earl Burden, who had a great love for the lakes and was an avid sailor. His dream was to see them be usable and user-friendly and his hope was to see a cove where sailboats could be gathered and more opportunity for recreational usages of the lakes. He said that Mr. Burden passed away last year but before he did he asked Gordon Bean and himself to assist in keeping his dream alive.

Mr. Worob said that two years ago he worked with the current Mayor, Marlin Kuykendall and members of the Council on a task force for sewer/septic. He had approached then Mayor Jack Wilson with the thought that a task force would help alleviate the anxiety of impending sewer systems and the lack of knowledge of how septic systems can work and should be addressed. The results of that committee were far reaching, but one result was an understanding of how the community and government could better work together to come to an understanding and mutual agreement. They brought in stakeholders and dealt with facts. He said that process was successful and he approached Mayor Kuykendall with the same concept, but for the two lakes.

The Mayor asked him to select a core group, which he did with Michael Byrd, Executive Director of Prescott Creeks, Chuck Budinger, environmental engineer with ADOT, and Gordon Bean, co-owner of Aspen Creek Engineering. He then presented the Statement of Purpose for their group: *“To research, review and recommend strategies to the City for lake improvements while considering the parameters of water supply, water quality, recreation and tourism while encouraging stakeholder involvement and public education.”*

Mr. Worob then introduced his nephew, Sean Worob, who continued the presentation. Mr. Worob said that the statement may seem simple, but it involves vast amounts of data and the comprehension of different concepts. It will lead to an understanding of the complexities and developing a consensus for moving forward with a lakes management plan. They agreed to not come to conclusions or recommendations until such time as all the cards were on the table or the timing was right. At this time they believe there are two recommendations that they will offer at the conclusion of their presentation.

Mr. Budinger continued the presentation by addressing the TMDL (Total Maximum Daily Load) process being conducted by the Arizona Department of Environmental Quality in conjunction with Prescott Creeks. He said that the EPA had previously designated Watson Lake as impaired, and from the current studies of ADEQ they will be agreeing with that assessment. He said that the intent is to get the water body removed from the impaired list.

He said that the advantage of the having the TMDL for Watson Lake and Granite Creek is that the water quality is based on the type of use that has been designated for the water body. This fits in well with the mission of the committee of finding the best use or uses for the resources that Prescott has acquired.

He said that based on a presentation given by Susan Fitch with ADEQ, it was noted that for the TMDL process to be successful the City will have to work closely with community groups and a variety of stakeholders. Chlorophyll-a is the primary pigment in plants and algae and can be converted into algae or aquatic plants. Algae becomes a problem when Chlorophyll-a exceeds four micrograms per liter. Sometimes in the summertime Watson Lake has had levels as high as

301 micrograms per liter. The sampling program being conducted right now for the ADEQ is to collect and analyze for the whole suite of parameters to develop a representative chemistry of the lake and how each parameter may affect the other.

He said that right now the lake support a decent cross-section of fish species but collaboration with other agencies such as Game & Fish is important to develop a program for the lake to function as a fishery. At this time there are two potential issues of concern from the public health perspective—alcotoxins and bacteria in the streams flowing into the lake. Alcotoxins are not a problem at this time, but the conditions for their production could develop if action is not taken to reverse the trend in the lake.

Later this summer Ms. Fitch will be collecting samples for bacteria and alcotoxins in some of the coves of Watson Lake. She said that the City must begin the steps necessary to remove the lakes and streams from the impaired list through the permanent reduction of contaminant loading.

She said that the future plan is to complete the TMDL so the City has the numbers to make informed decisions on the best uses of the lake. The TMDL is revised every five years so the options available in the implementation plan can be staged over the long term.

Councilman Hanna asked if the study would determine if the bacteria was natural source of induced by humans. Mr. Budinger said that he did not believe her mission was to do that; however that type of study is going on by Prescott Creeks.

Mr. Byrd said that Prescott Creeks was putting together a Granite Creek Watershed Improvement Planning process. They have a council put together with representatives from the City, County, Prescott National Forest, ADOT. He said there were a lot of moving parts to the project, but one of the efforts they have undertaken was collecting some of the bacteria samples to get a better sense of where they were coming from. At this point they do not have conclusive data. They will continue to collect through the summer and next winter and come back with results.

Mr. Byrd said that one of the presentations the committee had was given by Jay Crocker of Prescott Creeks, who prior to that had a 25-year career with a metropolitan water system in southern California. He was very familiar with how a lake works and gave the group a presentation on how a lake functions.

Councilwoman Suttles said that they purchased the lakes in 1998 and asked if there were issues before that time. Mr. Byrd said that there is a lack of data to say for certain. The management of the lake has changed dramatically since that purchase and any time there is a change in management, new issues can

crop up. He said that they may have been there prior to the City's purchase, but they may not have seen them. At that time CVID would draw down the levels so keeping them full may enable them to see these problems.

Councilwoman Suttles said that she had lived in Prescott for long enough that her kids fished there. When the CVID came the lakes went down and no one swam in them even back then. Mr. Byrd said that taking a historical perspective is part of what the committee is trying to do.

Councilman Lamerson said that those lakes were constructed for cattle and irrigation. Their use has changed since the City bought them so they need to be looked at differently than before. Mr. Byrd said that the lakes are impacted by light, water density, temperature, etc. and monitoring efforts could be ongoing to get a clear picture of what is happening over time. Another issue addressed during the talks was the water, light and nutrients allow for aquatic vegetation and the algae to grow.

Mr. Byrd said that upstream and the lakes themselves need to be focused on. Focusing on one or the other will be insufficient. At this point they were trying to get education.

Mr. Worob said that a few comments were made by their speakers indicating that they were proud to be working with the City and its volunteers on these issues.

Mr. Worob then reviewed the recommendations being made to the City:

1. Adopt a plan to further involve the City of Prescott in the TMDI Program and the use of the allocated \$25,000 for sampling and other lake issues.
2. Reconsider the resolution to apply a 75 cent per metered-household per month to be used as an environmental funding source for the enhancement of the watershed and the implied areas that are affected by that.

Councilman Lamerson said that he thought it was important for the Council to understand the complexity of the water issues. A lot of times they will get bogged down that it is all about allocation, but it is important to understand the relationships that get built over time with other agencies. He said that the City and other agencies are all serving the public and they are working as a unit.

He said that one of the unfortunate circumstances was that a quorum from the Water Issues Committee was not present which made it difficult to make a recommendation to the Council as a whole, but hopefully they will give regular updates to the Council and community on some of the things they are coming up with.

Councilwoman Suttles said that it gave them more information on what is going on at the lakes. She asked what was required of the Council. Councilman Lamerson said that there was \$25,000 in the current year's budget to study the algae problem, but with that issue being addressed indirectly, the Committee may be recommending that it possibly be directed toward sampling. He said that the \$.75 cents fee was a different scenario. Understand that if their assured water capability became questionable because of the water standards in the lakes, they could have a problem, so they had discussed implanting that fee to address the lake issues.

Councilwoman Suttles said that they have talked about other groups funding by user fees. She thought with the stakeholders being brought to the table they should be able to find out what they can do before they go back to the citizens. She would like to get into it more, seeing what was available before it goes back to the users because they will have citizens say they do not use the lakes.

Councilman Lamerson said that he appreciated those comments, but wanted to remind everyone that it was not just about those who use the lakes. It has to do with the water quality in the lakes and a portion of that is obligated for recharge to maintain their AWS portfolio. If it alters that capacity, it affects everyone.

Councilwoman Suttles said that if each of the property owners could change out their septic systems it would help. Maybe they need to start further out as to some of the things feeding into the lake. Mr. Worob said that was right. One of the outcomes of the fees is that the fees would be available if a problem arises that affects the lakes. He said that they know there is a whole watershed that is impacted. The individual homeowners could be more educated.

Councilwoman Linn said that the information was interesting and she really appreciated the professionalism and respectful attitude in working together.

Mayor Kuykendall thanked the committee members and citizen volunteers. He said that he was fortunate to be part of the original committee that looked at the North Prescott area, although it is not the only area without sewer. It did not take long for them to realize that it is just a part of the problem. He said that in years past they asked the citizens to buy the lakes, but they did not put anything in to that on how to maintain the lakes. Prescott has done that a lot of times without looking at maintenance. He said that now they are forced to step up and realize it will take money to maintain and make the lakes a benefit for the long term. In addition to recreational facilities there is a quality standard required before they could put water back into the ground and a funding source must come. He said that there will be arguments on where it should come from.

Mr. Worob said that their citizen committee has prepared to volunteer and realize it will not be a short-term process. The lakes are impaired and they will

be federally mandated. It would be better if it comes from the community. He said that they do not have real solutions. The answers will take time and they were prepared to work through that. Councilman Lamerson added that it would be better to come up with solutions than be subject to a mandate.

Mayor Kuykendall said that since Ms. Barks did a report on the issue the City has received a lot of advice on what to do with the lakes and how to alleviate the problems. He said that they were happy to receive them and will follow them through to conclusion.

Norm Samuelson, Prescott, said that he was involved with the paddle clubs and he really appreciated the fact that the City has the lakes; they were a wonderful asset. He thought they were doing the right thing in studying the problem before jumping in to doing something. He liked seeing the cooperative nature between the government and its citizens.

John Zambrano, Prescott, said that it was his understanding that the lake water was being recharged and delivered without any monitoring for quality. Mr. Craig Dotseth said that they have requirements that pertain to the recharge of effluent. Their underground storage permit with ADWR has water quality monitoring time frames on surface water. They are monitoring on the recharged lake water.

Ralph Weiger, Prescott, said that he lived out near Lynx Lake. He asked if that lake and Goldwater Lake were included in any of the studies. Councilman Lamerson said that the two most endangered were Willow and Watson. He said that it does not mean that they were not considering other water issues at the other lakes, but they have learned that one shoe does not fit for all. Even the lake capability of Willow is different that Watson. They can only look at doing certain things in a certain timeframe, but they were looking at Willow and Watson because that was the water they use for recharge purposes. Mr. Weiger said that he used to live in Kuwait and they did desalinization 100%.

2. Adjournment.

There being no further business to be brought before the Council, the Workshop of the Prescott City Council held July 13, 2010, adjourned at 2:53 p.m.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
JOINT WORKSHOP/SPECIAL MEETING
TUESDAY, JULY 20, 2010
PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Joint Workshop/Special Meeting held on July 20, 2010 in the City Hall Council Chambers, 201 South Cortez, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the Joint Workshop/Special Meeting to order at 2:02 p.m.

◆ **ROLL CALL:**

PRESENT:

Mayor Kuykendall
Councilman Blair
Councilman Hanna
Councilman Lamerson
Councilwoman Lopas

ABSENT:

Councilwoman Linn
Councilwoman Suttles

PUBLIC WORKSHOP

1. Presentation on the Final Report of the Safe Yield Work Group of the Upper Verde River Watershed Protection Coalition by John Rasmussen, Coordinator, Yavapai County Water Advisory Committee.

Mr. McConnell said that this report was the result of a discussion at the May 10 meeting of the Upper Verde River Watershed Protection Coalition where it was requested that each community receive a presentation of the report. He said that John Rasmussen was not singularly responsible for the report, but would be giving the presentation today.

Mr. Rasmussen acknowledged Howard Mechanic who was a member of the Safe Yield Work Group.

The purpose of the Safe Yield Work Group was to put together a plan to achieve safe yield in the Active Management Area, which is part of the Coalition's overall management goal. He said that a Safe Yield Work Group was put together comprising of members of the Technical Advisory Committee and the public.

He then reviewed a PowerPoint presentation, Exhibit A attached hereto and made a part hereof, which addressed the following:

- ▶ REPORT RECOMMENDATIONS:
 - ▶ REPORT OUTLINE
 - ▶ SAFE YIELD AND OVERDRAFT
 - ▶ MAJOR FINDINGS OF THE REPORT
 - ▶ COSTS
 - ▶ COST TO REACH SAFE YIELD
 - ▶ MANAGEMENT STRUCTURES
 - ▶ MANAGEMENT STRUCTURES EVALUATED
 - ▶ MANAGEMENT STRUCTURES – REPLENISHMENT DISTRICT
 - ▶ MANAGEMENT STRUCTURE FEATURES - SUMMARY
 - ▶ REPORT RECOMMENDATIONS
1. Public Education Program addressing Safe Yield
 2. Understand the details of creating a Replenishment District

Mayor Kuykendall asked Mr. Mechanic if he had any comments.

Mr. Mechanic said that three years ago the Coalition discussed this and it was a perfect coalition to get this going as all of the jurisdictions in the AMA sit on its Board; however, it is not the perfect group to run a replenishment district for a few reasons. First, the Coalition is a bureaucracy in that the members do not vote on anything; they have to go to each jurisdiction for action. Second, they have no funding authority. Third, there was a question of whether one member could drop out after years and mess up the funding from the others.

He said that they need to solve safe yield. The cost of not reaching safe yield is going to be close to the cost of reaching it and they need to act soon. This is not something far in the future. Every year they lose about 11,000 acre feet of water in the aquifer.

Mr. Mechanic said that it had come to his attention that they were not the only area in the country that needs to work together to solve water problems. In many cases the Bureau of Reclamation works with jurisdictions, but they would not come in and deal with the City as a separate entity. There has to be a unified

entity to deal with these issues, and the point was that they need to work together.

He said that the idea is that if they were amenable to working out the details then they could get some resolution from the Council asking the Coalition to pursue those objectives. It would come back to the Council; they would not be signing a blank check. There would be no commitments whatsoever in the way of the Replenishment District. They would just be asking to see more details worth out further.

Councilman Lamerson asked if anyone had reached safe yield. Mr. Rasmussen said that Prescott is perhaps doing more than many others. He said that the figure mentioned of 11,000 ac. ft. per year is for the AMA as a whole, from the Department of Water Resources.

Councilman Lamerson said that one thing that keeps getting lost is that Prescott cannot solve this issue as Prescott; it has to be solved by all the players, as well as the State.

Mr. Mechanic said that they have about 8,000 ac. ft. coming in to the AMA each year. If they want to continue the underflow going to the Verde River from the AMA, approximately 3,000 ac. ft., that leaves 5,000 ac. ft. for everyone in the AMA to pump. In order for Prescott to determine if it is in safe yield, they would have to determine how much of that 5,000 ac. ft. Prescott should pump. Prescott is pumping more than that already itself. He agreed that Prescott was doing more than the others, and they do all need to work together.

Councilman Lamerson said that Prescott does not have jurisdictional authority over exempt wells, or the consumption of other municipalities. It is important to acknowledge the fact that while Prescott may not be the poster child, they have taken the lead in a lot of the areas trying to solve some of the water issues.

Councilman Blair said that Mr. Mechanic made the comment regarding the overdraft being taken away from the Verde River. He said that he has not seen that report. Mr. Mechanic said that there was an underflow from the AMA; 15% of the base flow of the Upper Verde River comes from that area. He said that he would get a copy of that report to Councilman Blair.

Councilman Blair said that the State mandates things but continues to allow exempt wells. He said that when they talk about wells going dry they need to ask whether they were qualified wells in the first place. He said that if someone puts in a well at the first drop of water and it eventually goes dry, they cannot say it was from a depletion of the aquifer.

He said that they cannot say that anyone else has reached safe yield. He appreciated the fact to have an opportunity in Prescott to try and reach their

share of safe yield and if that is what the Coalition is about to assign that was okay with that. They have shown that they can reach safe yield if they pledge the water from the Big Chino.

Mr. Mechanic said that they were talking about wells in the AMA and Councilman Blair was talking about wells in the Big Chino which are not in the AMA.

Councilman Blair said that if they were talking about wells going dry in the Chino Valley area, that were drilled decades ago, the question should become whether they were depleted because of use or because of the environment and dry years.

Mr. Mechanic said that there were test wells all over the AMA and on a regular basis they have measured the depth of the AMA. The water keeps going down in a vast majority of the test wells. Councilman Blair noted that some have gone up.

Mr. Mechanic said that if they want to reach safe yield they need to work together, including the exempt wells, and they were the first ones to be hurt because they have no alternative. When they go dry they will want water from Prescott. He said that the idea of dividing responsibility of jurisdictions came out four or five years ago but that idea was not picked up as the best alternative for various reasons. He said that Prescott has the best chance, if divided up, to take care of its part of the overdraft, but Prescott's citizens are going to spend millions of dollars to be assured that they were not saving water that someone else is going to use and that could happen. That was why they need everyone working together.

Councilman Blair said that if they can import water as the state says they could they could reach safe yield any time they want to but if someone is actively pumping for a massive development it may hinder all of them. They need to be looking at the larger picture. Mr. Mechanic said that the issues need to be developed and he asked who was going to do that. He said that it is an AMA problem, not a Prescott problem.

Councilman Blair said that they need to work on the other communities and the County. Mr. Mechanic said that at the Coalition meeting all of the jurisdictions were to take the report back and discuss it with their respective councils/boards. He said that Prescott was the second jurisdiction to do so.

Councilman Blair said that the City approved a conservation measure that has now affected the sewer system. He asked what more the City of Prescott should do. Mr. Mechanic said that they would ask that the City approve the two recommendations and let them take that back to the Coalition. Unless all of the

jurisdictions agree it will be difficult. They need assistance from the State and if they are not united it will not go anywhere.

Councilman Lamerson asked if there had been any discussion as to what the state was prepared to do for their accountability with regard to exempt wells. Mr. Rasmussen said that the short answer was no. There are discussions periodically occurring about the problem in Yavapai County in general. His understanding was that it was around 11,000 in number. In his experience they have not gotten far with those discussions.

Mr. Mechanic said that if they had everyone fund a Replenishment District it would include the exempt wells. There were different ways to address the issue that need to be investigated further. He said that the Water Authority was an alternative but they did not get much support for that as it restricted people's rights. Councilman Lamerson said that he agreed; he would not support that, but on the other hand he does not agree with holding the residents of Prescott to a different standard when they were doing more and others were doing very little.

Councilman Hanna said that the idea of reaching safe yield was a good one, but he doubted that it will ever happen. He said that one thing they have not considered is that everything runs in a cycle such as the rainfall and replenishment of the aquifer. He said that when he was reading the report he was concerned that the Replenishment District would be "prohibited from selling potable water, requiring measurable well devices, requiring mandatory conservation, regulating water use and regulating land division and exercising eminent domain, regulating zoning issues and implementing or other regulations as may be defined during this formation." He did not think that government should be involved to that degree. Mr. Rasmussen said that those were put in there to alleviate those concerns.

Councilman Hanna said that when they start metering wells they start butting heads with everyone. The less bureaucracy they can have in their lives the better of they will be.

Mr. Rasmussen said that he appreciated those comments. He said that he was unaware of any talk in the state about metering wells. Councilman Hanna said that he had a well and was given some information to that regard.

Councilman Blair said that he is anxious to know where the Replenishment District would be and what exactly they were trying to achieve. Mr. Mechanic said that those were details that need to be worked out. As far as what projects, conservation, replenishment, etc., they can speculate at this time, but they want to do more investigation. He said that there were various options that need to be studied and if they do not study it they will get nowhere. He said that they were

not debating on Colorado River water at this time; they were debating on whether they want to reach safe yield.

Councilman Hanna said that there were a lot of scientists that they were in a global warming; others say they were not. They can get scientists to say whatever they want. He does not buy the scientific rhetoric that they were not going to have the same snowfall as they used to have.

Mr. Mechanic said that they do not need to go there at this point unless they believe this will be solved without any action. Councilman Hanna said that he believed it would take some action but asked if this was the right action. Mr. Mechanic said that he did not like bureaucracies any more than the others but the point is they need the best solution to the problem. Councilman Hanna said that he agreed with him on that. He said that they need to get the facts out to the people and not give them facts that are misleading. He believed they were trying to do everything they can over and above what the other communities in the AMA are and he took offense that it was directed toward Prescott.

Mr. Mechanic said that it was not directed toward Prescott and no one said it was. Councilman Lamerson said that one of the things on their water rates has to do with alternative water and at one time Prescott was sealed at a particular assured water perspective and Prescott already implemented rate increases that the citizens of Prescott pay for alternative water. He may not be warm with coming up with another idea to approach the citizens of Prescott for another tax on their water consumption when others in the AMA have not done so.

Mr. Mechanic said that he did not think that anyone in Prescott would support double-dipping. Any project has to be considered. He was a taxpayer as well. He did the research that showed that under Proposition 400 all effluent in large annexations would go to permanent recharge. They are paying for that right now; 20% of their bills go to safe yield. The point is that the public in Prescott is paying millions. They will not be double dipped, but if they do not have a plan to reach safe yield he asked why they should be paying \$100 million to recharge 5,000 acre feet. Councilman Lamerson said that he did not think they were arguing on that one. Mr. Mechanic said that they need to work together on it.

Mayor Kuykendall thanked Mr. Rasmussen for his leadership in the study group and thanked Mr. Mechanic for his participation. He agreed that Prescott was standing out in front with what they were trying to do. He agreed that they need to work with the others and the Council was determined to do that. He asked Mr. Rasmussen where he thought the County's position would be with a water district.

Mr. Rasmussen said that he believed that the County was undecided at best. He did give the presentation to them a month ago and the general discussion among the board members and public was similar to the discussions today.

They did not take action on either one of the recommendations. He expects that they will bring up the report in the future, within the next few months.

He said that the County was clear to point out that it was not just the two recommendations; there may be others as well. One of the general things he heard at that meeting was there were a few ways of looking at it. The report focused on the managerial function and perhaps it could have focused on projects. He said that the committee did contemplate that process but the question kept coming up as to how to pay for them.

Mayor Kuykendall said that if the County retains that position he asked Mr. Rasmussen where they saw the Coalition directed. He asked if the cities could move forward without the County. Mr. Rasmussen said that it seems that individuals were moving forward and the point should be well taken that they were drawing from the same resources. They need to work together.

Mayor Kuykendall said that he could assure them that Prescott, SRP and Prescott Valley would continue to move forward. When the other players pick up the bat it will help. He said they never want it to be an “us versus them.”

2. Presentation on the Noise Ordinance.

Police Chief Kabbel said that at this time of the year they receive complaints on loud noise including events on the square such as bands, bars, motorcycles, loud stereos. They have been enforcing the Code, but wanted to evaluate it and see if there were changes needed. In the evaluation with the Legal Department, they believe that the current ordinance was adequate to address any complaints or violations.

He said that they have a city ordinance and two state statutes. One of the statutes refers to decibel levels permitted so they are recommending additional signage be posted at the City limits and in the downtown corridor, obtain two sound level meters and education of officers on charging guidelines.

He said that with regard to enforcement, the two sound level meters would run around \$1,200 and the signage downtown would be around \$915, for a total of \$2,115.

Mayor Kuykendall said that they have had a lot of input from people and most received were about those enjoying their motorcycles. The complaint is always that it is very few causing havoc and one suggestion was that they have small signs placed at the entrance to town and also on the speed signs in the community. He asked if that was an option.

Chief Kabbel said that it was reasonable. It would cost more money, and sometimes they sign themselves to death. He said that he would like to see

them try the main corridors and in the downtown and see how that works first, evaluate it and then consider whether they need to increase signage.

Mayor Kuykendall said that they had two calls today from bar owners and they both indicated that they would be willing to make sure their bartenders and bouncers could be part of the solution through the education process. They thought it was the City's battle to win and that they could do it without an additional law.

Dennis Duval, Prescott, said that the state statutes make it clear that it is illegal to operate a motorcycle without a muffler. He suggested that if parking enforcement sees that a motorcycle does not have a muffler they could issue a citation. He said that it was the method used in Baltimore, Maryland and shared with him by George Lutz.

He said that they were aware of the special interests on Whiskey Row, but it was a quality of life issue when motorcycle use makes it impossible to carry on a conversation in downtown. He asked how many people stay away because of the noise disturbing their peace and quiet. He said that motorcycle noise was just plain inconsiderate to everyone wanting to enjoy the unique atmosphere around courthouse square.

Mayor Kuykendall said that he personally thought it was far more than motorcycles; he found the boom boxes far more offensive. He said that he has not had one call regarding further restrictions and he would oppose them. He said that it is also far more than just the downtown. He would encourage people to keep the decibels down around the City.

Mr. Duval said that he was offering a method of enforcement that was inexpensive and went beyond public education and signage. It was simple to have the parking control person look at a motorcycle and see if it was running a straight pipe. Chief Kabbel said that unlike other states, Arizona Revised Statutes require that the vehicle be operated on the roadway to be cited. It cannot be parked and be cited. He said that parking attendants do not have authority to stop vehicles.

Councilman Hanna said that he understood, but just because there is an appearance of a straight pipe, it could still have a muffler.

Councilman Blair said that he appreciated the comments, but there were more things that aggravate him like dogs barking or foreign cars with mufflers larger than the car. He believed that the Police Department was working on this and leaving it with them was the best thing.

Councilman Lamerson said that he agreed; he found other things as offensive as motorcycles. He agreed with Councilman Blair that they have ordinances and they need to enforce what they have.

Bill Bonnewitz said that the City's noise ordinance was ten years old and there has been a lot going on since then, with increases in traffic. He thought they needed to take a hard look at the ordinance. He said that they need to get away with just addressing motorcycles. They need to address noise as a big pollution problem.

Mr. Kidd said that there have been a number of meetings with staff over the last year, working with the Police Department. He said that the officers have to be in the right place at the right time and unless they were it becomes hard to enforce. He said that the City's ordinance is similar to those of other cities. The difference is that they can monitor the decibels and it becomes an additional weapon to use in prosecuting.

Mr. Bonnewitz asked if the decibel meters were recordable. Chief Kabbel said that were similar to the radar guns; there was nothing printed out.

Councilman Blair said that it does not matter how old the ordinance was. He said that 35 years ago his 1968 Ford pick up got him a ticket. If it is obnoxious and something not tolerable it should be cited, but they do not need anything further regulations than what they have.

Steve Gugoin, Prescott, said that he had a business on Division Street, and he had been hearing a lot of ridiculous things. He said that he saw nothing about an actual decibel number. Chief Kabbel said that it was in the Arizona Revised Statutes as well as in R17-4-5-10 that talks about decibel levels.

An un-named speaker said that the limit is 83 dec., but a vacuum cleaner is 90 dec. and the gunfire down in the downtown square is 140 dec. which is ear-damaging. He said that he thought it would be hard to regulate and they will spent a lot of money taking it to court.

Chief Kabbel said that they would move forward and report back to the Council on its progress.

David Pratt, Chino Valley, said that he works in Prescott and has a mailbox there. He said that there is a lot of expense that is going to be incurred by stricter enforcement when it is already being enforced appropriately. He said that they were fixing something that was not broken.

Mayor Kuykendall explained that they have received citizen complaints and when they get a complaint they try to arrive at a solution.

Rudy Wolfe said that he had been a citizen for nine years. He said that there are some motorcycles that were designed to make noise. He said that at the end of Simmons' term he had asked how many prosecutions they had and was told four, with three convictions and one pending. He asked how many they had in the last year. Chief Kabbel replied that they have had 73 complaints issued, but not everything ends up in court.

Mr. Wolf said that they should have the noisy bikes go to the Police Station and be tested there.

3. Presentation on the Alarm Ordinance.

Police Lt. Reinhart said that they last time they met they had offered some different options and Council gave them direction. What was being presented today was based on that direction. He then gave a PowerPoint presentation which addressed the following issues.

- ▶ FALSE INTRUSION ALARMS
- ▶ PURPOSE AND RECOMMENDATION
- ▶ BACKGROUND
- ▶ DISCUSSION / ANALYSIS

Councilman Lamerson asked how many officers they usually send when they respond to an alarm. Lt. Reinhart said that they normally send two.

Councilman Blair asked Councilman Lamerson how many false alarms he had at his jewelry store over the years. Councilman Lamerson said there had been very few. Councilman Blair said that he did not believe that the \$100 was enough.

Councilman Lamerson said that many times they can get a heavy duty truck rolling down the street and it can set off alarms.

Lt. Reinhart said that they looked at various agencies and what was charged throughout the nation. They did have a progressive scale, which would be reviewed.

- ▶ DISCUSSION – ANALYSIS

Lt. Reinhart said that after the second warning the charge would be \$100 per false alarm and that would increase by \$100 every time. They would invoice for payment and if they failed to pay it would go to collections like they do with citations. If they continued to refuse to pay they would go to a verified response

procedure for that location. Police would have to have an indicating that there was a break in before they would respond to it.

▶ DISCUSSION – SOLUTION

▶ FISCAL IMPACT

He said that they would hire a part-time person to oversee the program, but they believed that with the fine structure imposed it would be neutral in expenses.

Lt. Reinhart said that they were looking for direction from the Council, on whether they should move forward with bringing an ordinance to Council for consideration.

Councilman Hanna asked if there would be a fee for the permit. Lt. Reinhart said that they would charge a \$15 fee yearly for maintenance of the permit, to the permit holder and the alarm business.

Councilwoman Lopas asked if the “freebies” would be on an annual basis. Lt. Reinhart said that it could take three years to use up the freebies.

Councilman Lamerson asked if he heard that they were dedicating the revenue generated through the fines and permits to the program. Lt. Reinhart said that was correct. It was not being used as an income stream, but would be cost neutral.

Lt. Reinhart said that when other cities did a similar program they have seen a 30-60% drop in false alarms. They were anticipating similar changes, but they do not think they will ever alleviate the false alarms.

Councilman Blair said that he appreciated what was being presented and agreed with it. He said that he would like to see a complete run down of how the response has been after one year of the program being in place.

Mayor Kuykendall asked how many alarm systems they had in the City. Lt. Reinhart said that they went with the national average and were expecting there to be around 5,000 alarms.

4. Presentation on upcoming changes to Arizona Revised Statutes regarding commercial solid waste hauling.

Chad McDowell gave some history on changes that have been made recently in the state by the legislature having to do with commercial accounts within the City. He gave a PowerPoint presentation which addressed the following issues.

▶ PLANNING FOR CHANGE

Mr. McDowell said that they have been networking with other cities such as Casa Grande, Sierra Vista, Flagstaff, Yuma, Kingman, all of whom are in jeopardy like the City of Prescott is. Most of them are working closely with the City to see which laws we implement. They looked at the big cities of Mesa, Surprise, etc. who have been at the forefront in solid waste. They reached their population limit a long time ago and shared their success stories with staff as well as their failures.

He said that they had suggested that the City have license agreements, which would guarantee rates for a three-year period of time and they have been able to secure about 350 accounts.

Ms. Hadley said that pursuant to Arizona Revised Statutes they have to put everything on a level playing field. She said that they also have to be competitive. The competition now has salesmen out trying to secure accounts, so some of the City solid waste employees are also doing that.

Councilman Lamerson said that there are certain types of vehicles that abuse the roads differently and it would seem that garbage trucks would be those sorts. He said that while they were handling the rates for garbage, they are collecting the money that is brought back into the City that is used to fix the roads. He asked if there was a mechanism to compensate the City in bringing these other trucks.

Mr. McDowell said that right now the City charges itself \$15,000 per truck per year, which is roughly five percent of their gross revenue, and that is charged on every truck, whether it is for residential or commercial service.

▶ MARKETING CITY SERVICES

▶ STATUS REPORT JULY 2010

▶ FEES AND CHARGES FY 11

Mayor Kuykendall said that they were guaranteeing rates for the commercial users for a three-year period, but they were raising residential rates for the same service. Mr. McDowell said that they have not signed contracts for residential. He did not believe they were going to be able to for the residential because they were scheduled to go up. They will be doing a rate analysis this year and see how much this affects them. He said that the fee would be adopted each year by the Council.

▶ LANDFILL CLOSURE MAINTENANCE FEE

Mayor Kuykendall asked how much was in the Landfill Closure Maintenance Fee fund. Mr. McDowell said that it was around \$1.2 million. He said that they were going to do a rate analysis on what they would need to have, working with Travelers Insurance.

Ms. Hadley said that they do have monitoring wells near the landfill and contamination is not a threat at this point. She said that they monitor it closely.

▶ TRANSFER STATION FEE

Councilman Lamerson asked what they did with the recycling. Mr. McDowell said that they have two contracts for recycling. One for commercial recycling the City is paid \$10/ton and that is taken to Mattera.

He said that the concrete, asphalt, dirt and rock go to the Field Operations area and it is recycled. Councilman Lamerson asked what it would cost to go buy what they were recycling. Mr. McDowell said that the asphalt millings would cost around \$25/ton. Councilman Lamerson noted that the City pays \$15/ton to not have to pay the \$25/ton.

▶ CITY CODE CHAPTER 2-13

▶ COMMERCIAL SOLID WASTE HAULER PERMIT

Mr. McDowell said that the City does not pay the right-of-way fee; however, the dumpster enclosures downtown were paid for by the Solid Waste Division.

Councilman Blair asked what would happen if the private haulers damage one of the enclosures. Mr. McDowell said that it would be handled through their insurance, which is why the City was requiring insurance coverage.

Mayor Kuykendall said that he has heard an argument that the City does not have to break even because the taxpayers will pick up the difference, but the private haulers have to break even. Mr. McDowell said that the Solid Waste Division is run as an enterprise fund; it is run just like a business. He said that they have to break even or make a little money to have cash reserves. He said that if they were not doing that then he would not be there next year.

Ms. Hadley said that there was a lot to take in with all of the Code revisions. She said that Legal has looked over the proposed changes as well as Risk Management and she believed they were both comfortable with the permit process.

Councilman Blair asked what the downside would be of what they were doing. Mr. McDowell said that the downside is that the private haulers will be charged 5% of their gross revenue to operate. Councilman Blair said that he was glad they were doing that.

Ms. Hadley said that it was not unlike the City's franchise fees paid to use the City's rights-of-way. Councilman Blair said that it was a cost of doing business and as long as the City was paying as well, he was fine with it.

Mayor Kuykendall said that the profit from the Solid Waste Division in the past is what has been used to help pay for the free pick up day. If they do not make the money they have in the past that may have to be curtailed.

Councilman Lamerson said that it was a good presentation. He said he one of those that was not pro-tax or pro-fee, but on the other hand they know from historical activity the kind of vehicles operating to pick up garbage mess up the roads. He did not think that free enterprise should be able to come in and damage the roads without paying for it.

Ms. Hadley said that they would bring the code changes back to the July 27 Council meeting and they would be asking for an emergency clause because the State Statute kicks in on July 29 so they need their ordinances in effect prior to that time.

Mayor Kuykendall asked if the City's billings were on a calendar basis or staggered through the month. Mr. McDowell said that the trash billings were staggered.

Mayor Kuykendall said that along with the three-year contract they were asking for a three-year commitment from the customer. He asked what would happen if they decide to not continue for the three-year period. Mr. McDowell said that they could break it but it is a six-month payout.

5. Adjournment.

There being no further business to be discussed, the Workshop of the Prescott City Council of July 20, 2010 adjourned at 4:32 p.m.

SPECIAL MEETING

1. Call to Order.

Mayor Kuykendall called the Special Meeting to order at 4:32 p.m.

2. Recess into Executive Session.

**COUNCILMAN BLAIR MOVED TO RECESS INTO EXECUTIVE SESSION;
SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

3. EXECUTIVE SESSION

A. Discussion or consultation for legal advice with the attorney or attorneys of the public body, and discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS 38-431.03(A)(3) and (4).

1. Lexington Insurance Company v. City of Prescott (Retirement Housing, Casa de Piños).

B. Discussion or consultation for legal advice with the attorney or attorneys of the public body and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS 38-431.03(A)(3) and (7).

1. Re 4.68 acres of vacant land located on Eastwood Drive.

4. Adjournment.

The Prescott City Council reconvened into Open Session at 5:38 p.m. at which time the meeting adjourned.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
SPECIAL MEETING
(EXECUTIVE SESSION)
TUESDAY, AUGUST 3, 2010
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE PRESCOTT CITY COUNCIL held on TUESDAY, AUGUST 3, 2010 in the LOWER LEVEL CONFERENCE ROOM located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the Special Meeting to order at 10:00 a.m.

◆ **ROLL CALL:**

Present:

Mayor Kuykendall
Councilman Blair
Councilman Hanna
Councilman Lamerson
Councilwoman Linn
Councilwoman Lopas
Councilwoman Suttles (arrived at 10:21 a.m.)

Absent:

None

1. Recess into Executive Session.

**COUNCILMAN HANNA MOVED TO RECESS INTO EXECUTIVE SESSION;
SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.**

The Prescott City Council recessed into Executive Session at 10:00 a.m.

2. **EXECUTIVE SESSION**

- A. Discussion or consultation for legal advice with the attorney or attorneys of the public body and discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation, pursuant to ARS §38-431.03(A)(3) and (4).
 - i. Big Chino Water Ranch project.

- B. Discussion or consultation for legal advice with the attorney or attorneys of the public body, 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, and discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property, pursuant to ARS §38-431.03(A)(3), (4) and (7).
 - i. Potential property acquisition north of SR89A.

3. Adjournment.

The Prescott City Council reconvened into Open Session at 12:04 p.m. at which time the Special Meeting of August 3, 2010, adjourned.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
WORKSHOP
TUESDAY, AUGUST 3, 2010
PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Workshop held on August 3, 2010 in the City Hall Council Chambers, 201 South Cortez, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the meeting to order at 2:00 p.m.

◆ **ROLL CALL:**

PRESENT:

ABSENT:

Mayor Kuykendall
Councilman Blair (arrived at site)
Councilman Hanna (arrived at site)
Councilman Lamerson
Councilwoman Linn
Councilwoman Lopas
Councilwoman Suttles

1. Tour of sites and discussion/direction on the Peavine Trail crossings.

The Council members reviewed the proposed site locations and returned to City Hall at 3:40 p.m. at which time discussion began.

Mayor Kuykendall said that whoever made the point of the railroad crossing concept had a novel idea. He had seen some engineered arms that came down that work. He thought it was a great idea and worthy of the City engineers to look at.

He heard a conversation about what would happen if a trail user got hit by a car. He would be just as hurt if one person at Centerpoite East got hurt. Road 39 was not even on the drawing board yet. He would recommend that Council look at alternatives and decide to vote on whichever one to do.

Councilwoman Suttles said that she thought that he was heading in the right direction. She had questions about the maintenance, where the crossings would be, and if they would get buy-in from others. She said that Councilman Blair came up with the railroad crossing idea.

Mayor Kuykendall said that they would not require much maintenance.

Councilman Blair said that letting Mr. Smith look into the railroad crossings could set a standard for the entire trail. He thought that putting up a bridge was not a good idea.

Councilman Lamerson said that they did not have all of the information. He would like to get the information before he voted and asked for grants. They were going to have to have some sort of crossing. If those kinds of crossings were safe and economical that was how they should do it. Councilwoman Linn agreed.

Councilwoman Lopas said that regarding the arms, she would like to see an arm come across the trail rather than coming down, for added safety.

Nigel Reynolds, Prescott, said that it seemed that there was a consensus for gates. He asked that they not go with a cheap solution for the gates due to maintenance. It would be better to have some red flashing lights as well.

He asked what rights the City had to tell the developer what to do and asked what rights the developer had to say to the City what he demanded. Councilman Blair said that the City could make suggests based on the development agreement.

Mr. Nietupski said that the developer had rights to develop the property in accordance with the adopted standards of the municipality.

Mr. Kidd said that it was hard to answer a question like that in a vacuum. Roadway dedications, etc. are things that happen as they get into the project. The City had input on where the streets were located and can comment on trails. There was a requirement about a certain percentage of open space. Location of open space involved the City.

Mr. Reynolds asked if the City had any control over how many crossings went over the trail and how they went across.

Mr. Kidd said that if the railroad came after the right of way or if there was an existing long term right of way, then they have a right of access going across the Peavine if it has been established. If it was City owned property, if they were not land locked and if there were other access points, the City can say that the property could not be used.

Joyce Macken, Prescott, noted that the trails are an important tourist draw. Prescott was just mentioned in Arizona Highway. She was asked by Rails to Trails about the section of the Peavine that runs to Skull Valley.

Councilman Blair said that the more they can do with the least amount of money to make people safe, was best idea. He felt that they were a Council that cared.

2. Adjournment.

There being no further business to be discussed, the Prescott City Council Workshop of August 3, 2010, adjourned at 4:00 p.m.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, AUGUST 10, 2010
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL held on August 10, 2010 in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

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

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Pastor Wil Ryland, Church of Nazarene

Pastor Ryland gave the invocation.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Blair

Councilman Blair led the Council and audience in the Pledge of Allegiance

◆ **ROLL CALL:**

PRESENT:

ABSENT:

Mayor Kuykendall
Councilman Blair
Councilman Hanna
Councilman Lamerson
Councilwoman Linn
Councilwoman Lopas
Councilwoman Suttles

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood introduced the new Tourism Director, Don Prince. He said that they would be hearing from him shortly and that the City would be watching bed tax dollars closely. He said that he was pleased to have him on board.

Councilman Hanna asked everyone to keep the Trapp Family in their prayers who lost their two year old son. There were also three officers killed the other morning and they should keep their families in their prayers as well.

I. PROCLAMATION

- A. August 2010 as *Drowning Impact Awareness Month*.

Councilwoman Linn read the proclamation and presented it to Don Devendorf of the Prescott Fire Department.

Chief Devendorf noted that when he first heard about the presentation, he thought that Prescott did not have that many pools and that it would not apply. But, with the loss of a toddler recently and the recent drowning in Watson Lake, he realized that they still had the same problems as Phoenix, just on a smaller scale. He appreciated the proclamation and hoped that people would take the time to look for drowning safety issues.

II. CONSENT AGENDA

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

Councilwoman Suttles asked the Mayor to cover the first paragraph of how the money was established.

COUNCILWOMAN SUTTLES MOVED TO APPROVE CONSENT AGENDA ITEMS A THROUGH B; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- A. Approval of the Acker Trust Board-recommended expenditure of Acker Trust Funds as follows: Yavapai College – Artists in Residence Program \$5,000; Yavapai Symphony Guild – Music Memory \$1,500; Chaparral MusicFest \$2,000; and Sacred Heart Parrish TLC Children’s Theatre \$1,500 for a total of \$10,000.
- B. Approval of the Minutes of the Prescott City Council Workshop of July 27, 2010 and the Regular Voting Meeting of July 27, 2010.

III. REGULAR AGENDA

- A. Appointment of a member to the Board of Adjustment.

Councilman Lamerson noted that as liaison to the Planning & Zoning Commission, it gave him extreme pleasure to present Mr. Wiant with a Certificate of Appreciation for having served on the commission for 12 years. He also thanked him for service as a school teacher for many years.

Mr. Wiant thanked the Council for having him on the Planning & Zoning Commission and hoped to serve the City well on the Board of Adjustment Committee.

COUNCILMAN HANNA MADE A MOTION TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE'S RECOMMENDATION TO APPOINT GEORGE WIANT TO THE BOARD OF ADJUSTMENT, TERM TO EXPIRE MARCH 2011; SECONDED BY COUNCILWOMAN LINN; PASSED UNANIMOUSLY.

- B. Public Hearing and consideration of a liquor license application submitted by Michael Lewis, Agent for Lewman LLC, for a Series 9, Liquor Store, License for Mike's Mini Market located at 924 E. Gurley Street.

Ms. Burke reviewed the application for Mike's Mini Market, noting that the applicant was present should they have any questions.

COUNCILWOMAN SUTTLES MOVE TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

COUNCILWOMAN SUTTLES MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION SUBMITTED BY MICHAEL LEWIS, AGENT FOR LEWMAN LLC, FOR A SERIES 9, LIQUOR STORE, LICENSE FOR MIKE'S MINI MARKET LOCATED AT 924 EAST GURLEY STREET; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- C. Public Hearing and consideration of a bingo license application submitted by the Boys and Girls Club of Central Arizona at 335 East Aubrey Street.

Saul Fein from Boys and Girls Club, said that he was there with Dee Toci, Jim Musgrove and Ken Mabarak. They were celebrating their 10th year of service, and they were requesting the City's support for a bingo license. Thousands of children had been served and they had never rejected a child due to financial problems. Due to the bad economy, they needed to find new means of sustainable funding.

Councilwoman Suttles complemented the organization for getting out and doing something on their own and said that she hoped to come play some time.

Councilwoman Linn said that her kids hated for her to pick them up early from the Boys and Girls Club. She asked when they would be doing bingo. Mr. Fein said Saturday afternoon around 12:30 p.m. and will be

another night so that they did not compete with the bingo at the Adult Center.

Councilman Blair asked that if one night would not fulfill their financial needs, would they have to come back to Council to get an additional day. Mr. Lloyd said that it would probably be a separate application because one of the requirements asks them to state the dates that they would have bingo.

Councilman Blair said that maybe they could give them a cap of two evenings so that they would not have to come back to Council. Mr. Lloyd noted that the application asked for the specific days. The specific application had to be approved.

Ms. Burke said that the application had not gone forward yet and if the Council was comfortable with a new night, she thought it would be okay to approve the date at that meeting. Mr. Lloyd agreed.

Mr. Fein said that they would have the new application to the City before the week was over.

Mayor Kuykendall said that what they would be acting on would be for the one date, if they did not have the addition night chosen. Mr. Fein said that they would ask for Wednesday night.

Mr. Lloyd said that those dates were not what were noticed to the public. Ms. Burke said that the public was noticed that there would be a public hearing on that day; it did not have the details of the application. Mr. Lloyd felt that it would be okay to take action on the two dates suggested at the meeting.

Mayor Kuykendall asked how specific the motion had to be and if it needed to include the time. Ms. Burke said that the application was time specific, but she did not know if the motion had to be time specific. Mr. Fein said that it would be a 6:30 p.m. start on Wednesday night.

Councilwoman Linn noted that she and her children would not be benefiting from this because they pay full tuition.

Bill Feldmeier said that he was excited to have Bingo in his neighborhood and he added that the Boys and Girls Club had been a great neighbor.

COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN HANNA; APPROVED UNANIMOUSLY.

COUNCILWOMAN LINN MOVED TO APPROVE THE BINGO LICENSE APPLICATION SUBMITTED BY THE BOYS AND GIRLS CLUB OF CENTRAL ARIZONA AT 335 EAST AUBREY STREET, TO BE HELD WEDNESDAY EVENINGS STARTING AT 6:30 P.M. AND SATURDAYS BEGINNING AT 12:30 P.M.; SECONDED BY COUNCILMAN BLAIR; APPROVED UNANIMOUSLY.

- D. Authorization for award of contract to CPC Construction, Inc. in the amount of \$170,446.58 for the Base Bid and Alternate number 1 and approval of Authorization for Services No. 7 to Z&H Engineering for construction management in the amount of \$25,750.00 for construction of Airport Pavement Preservation and Markings.

Mr. Vardiman noted that the item was an award of contract for the construction and contract management of the project approved two weeks ago accepting grant from Federal Aviation Authority (FAA). It was for the pavement preservation for Taxiway Charlie, one of their primary taxiways. The project would include resurfacing the entire length with a sealer and reinstalling all of the pavement markings. The second phase of the project would be doing work across the entire airport installing some mandatory markings they had to put in.

The low bid was CPC Construction, out of Phoenix. They were asking for the award of the bid to CPC and asking for approval of authorization for services number 7 to Z&H for the construction management.

Councilman Blair asked Mr. Vardamin why he thought they only received two bids. Mr. Vardamin said that he did not know. He said that Fann Construction was the high bidder on the project.

COUNCILWOMAN LOPAS MOVED TO AWARD THE CONTRACT TO CPC CONSTRUCTION, INC. IN THE AMOUNT OF \$170,446.58 FOR THE BASE BID AND ALTERNATE NUMBER 1 AND APPROVAL OF AUTHORIZATION FOR SERVICES NO. 7 TO Z & H ENGINEERING FOR CONSTRUCTION MANAGEMENT IN THE AMOUNT OF \$25,750.00 FOR CONSTRUCTION OF AIRPORT PAVEMENT PRESERVATION AND MARKINGS; SECONDED BY COUNCILMAN HANNA, PASSED UNANIMOUSLY.

- E. Award of a three-year contract to Dibble Engineering for airport general architectural and engineering services.

Mr. Vardamin noted that they typically did this project every three to five years. The airport received four submittals for their request for qualifications which were evaluated by a selection committee. The committee was comprised of the City Engineer, Mr. Vardamin and two

qualified citizens that relocated to Prescott. One was the former County Engineer for Maricopa County and his wife who had 10 years of experience managing projects at Sky Harbor Airport. Dibble Engineering was the highest ranked firm.

They had negotiated a contract that was attached to the package. They provided a change to the fee schedule. Since the time the agenda item was published they took a closer look and worked with Dibble Engineering to reduce the per hour rate to bring it in line with what the City had been paying.

Councilman Hanna asked if he could explain the length of the contract to the public. Mr. Vardamin said that they did a three year process because of the length and time involved with acquiring federal funds. It took three to five years to get a project from planning to grant application, to finished designed product.

Councilman Hanna noted that just because they award the contract did not mean that the City could not get out of it if there was a conflict. Mr. Vardamin noted that it was a nonexclusive contract. Each contract would be negotiated with Dibble to be presented to Council. Each contract would be reviewed by the Federal Aviation Administration (FAA) and would have an independent fee estimate.

Mayor Kuykendall asked if the cost of the service would be paid 90% by the FAA. Mr. Vardamin said yes. Typical grant funding was 95% from the Federal government, 2.5% from the State and 2.5% from the City.

Mayor Kuykendall noted that the group would be using five local firms to assist them in the work.

COUNCILWOMAN LOPAS MOVED TO AWARD A THREE-YEAR CONTRACT TO DIBBLE ENGINEERING FOR AIRPORT GENERAL ARCHITECTURAL AND ENGINEERING SERVICES; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- F. Award of bid and contract to Asphalt Paving & Supply, Inc. in an amount not to exceed \$1,399,439.15 for the FY2011 Pavement Rehabilitation Project, to include Additive Alternates 1 & 2.

Mr. Nietupski noted that this was for a significant Pavement Rehabilitation Project on the following streets: Miller Valley Road from Hillside Avenue to the Sheldon Street intersection at Grove Avenue, Montezuma Street from Goodwin Street to White Spar and Eastbound Prescott Lakes Parkway in the vicinity of Smoketree Lane.

Additive Alternate 1 included White Spar, from Montezuma to Copper Basin Road. Additive Alternate 2 includes Goodwin Street from Summit to Montezuma Street.

They would replace three inches of asphalt with hot mix asphalt; all valves and manhole covers would be adjusted to final grade. City utilities evaluated their systems within the rehabilitation sections. They also contacted the gas company to do leak detection surveys to make sure that there were no imminent needs in the way of underground utilities with respect to anytime in the next five years.

The City received two bids, both local. The estimate was \$1.8 million. The low bid was \$1.4 million. It was a 60 day contract for the base bid. With the alternates it was increased to 100 days total. Commencement could be August 23 with a completion my November 30. This was a one-cent sales tax funded project. It would be the last project for 2011 in the Pavement Rehabilitation Program.

Councilwoman Suttles said that she was pleased to see that they had two local bidders within a very close dollar amount and was anxious to get the project started.

Mayor Kuykendall asked if they would be okay to get it down before the winter. Mr. Nietupski said that they felt the asphalt work would be completed before the end of November. Mayor Kuykendall asked if the material that was being taken up would be used for another program. Mr. Nietupski said yes.

Mayor Kuykendall asked if the money that they saved on this project would go towards another project. Mr. Nietupski said that with the added alternatives being awarded with this contract and taking into consideration the chip seal project which was ongoing and asphalt rubber friction course; those three projects will consume the budgeted funds for Pavement Preservation Program for that year.

Councilwoman Linn asked what sort of accountability they had that the project would be done on time. Mr. Nietupski said that the contract calendar days would be 100. There are liquidated damages in every contract. Those are assessed when they are justified, based on delays beyond the control of contractor.

Councilman Hanna asked how many miles of pavement they were talking about. Mr. Nietupski said that he would supply him with that answer later.

Councilman Blair said that he was concerned with the minimum aggregate standard and asked if they had raised the bar for this project.

Mr. Nietupski said that the asphalt requirements for this project had been reviewed, updated to be more consistent and met their needs. It had been accomplished for that project.

COUNCILMAN HANNA MOVED TO AWARD THE BID AND CONTRACT TO ASPHALT PAVING & SUPPLY, INC. IN AN AMOUNT NOT TO EXCEED \$1,399,439.15 FOR THE FY2011 PAVEMENT REHABILITATION PROJECT, TO INCLUDE ADDITIVE ALTERNATES 1 AND 2; SECONDED BY COUNCILMAN BLAIR; PASSED UNANIMOUSLY.

- G. Approval of reimbursement to Unisource Energy Services for relocation of gas main for Clubhouse Drive relocation in an estimated amount of \$58,128.00.

Mr. Nietupski noted that the expense had not been incurred; it was an estimated cost to relocate 650 feet of two inch gas main in the Club House Drive area. It was necessary because the line was shallow and interfered with their ability to do the relocation. Unisource had a prior right, a grant of right of way in which their lines were located. Under the terms of that grant and the franchise agreement they were entitled to reimbursement when the City asked them to relocate. This was an estimated cost. The City was obligated to pay the actual cost. This project would start within 30 days and then the City would be billed monthly or upon completion of the project.

Councilman Hanna asked if it was the top dollar. Mr. Nietupski said that it was an estimate provide by Unisource.

Councilwoman Suttles asked where the money was coming from. Mr. Nietupski said the one-cent sales tax.

Mayor Kuykendall asked if Unisource had a markup. Mr. Nietupski said that they did not.

Councilman Blair asked at what point after the line gets moved does the actual process of the road go to bid. Mr. Nietupski said that the building may proceed first with the road following right behind or they may go together. The intention was that they be completed by the spring.

COUNCILWOMAN LINN MOVED TO APPROVE REIMBURSEMENT TO UNISOURCE ENERGY SERVICES FOR RELOCATION OF GAS MAIN FOR CLUBHOUSE DRIVE RELOCATION IN AN ESTIMATED AMOUNT

OF \$58,128.00; SECONDED BY COUNCILMAN HANNA; PASSED UNANIMOUSLY.

H. Peavine Trail:

1. Adoption of Resolution No. 4038-1108 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona repealing Resolution No. 4031-1101 adopted by the Prescott City Council on July 27, 2010.

COUNCILWOMAN SUTTLES MOVED TO ADOPT RESOLUTION NO. 4038-1108; SECONDED BY COUNCILMAN HANNA; PASSED 6-1 WITH COUNCILWOMAN LINN CASTING THE DISSENTING VOTE.

- 2.* Adoption of Resolution No. 4039-1109 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the application for a Transportation Enhancement Grant from the Arizona Department of Transportation for [a grade-separated crossing or enhanced at-grade crossings] for the City of Prescott's Peavine National Recreation Trail where it intersects with {[Version A – Road 39; Version B – Centerpointe East Drive; or Version C – enhanced at-grade crossings]}, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.

Mr. Smith noted that if Council elected to choose one of the versions, Central Yavapai Metropolitan Planning Organization (CYMPO) had asked to see the City's final grant application tomorrow and submit it to Arizona Department of Transportation on Thursday.

Version A, separated grade for Road 39
Version B, separated grade for Centerpointe East
Version C, enhanced at-grade crossing with all of the standard features for both crossings with either the hawk signalized system or railroad gates.

He said that Scott Lyon was there to discuss pros and cons or restrictions with State and Federal guidelines.

Councilman Hanna said that he wanted them to understand that when he was campaigning he believed that the Council should show fiscal responsibility. Spending money was not showing that. He believed that grants, though it appears to be free money, are taxpayers' money. In the times they were in, he did not believe

they should be spending money on things that were not a necessity.

He did not believe that anything but an at-grade crossing should be considered. They were deemed to be safe by an engineering firm and they conformed to ADOT safety standards. He did not believe it was the responsibility of the City to teach safety; it should be taught by their parents. If horses can be trained to cross, children can be trained also. The four-point intersection had a combination of grade school, middle school and high school kids crossing everyday and the accidents there were very few if any.

They should also look at the percent of the users versus those living in Prescott and paying taxes. The percent of those using are 2-5%, which was giving them the benefit of the doubt. He did not believe that 95% of the taxpayers needed to pay for 5% of the wants of a group here in Prescott. He had voted no from the beginning and would continue to. He loved the trail. It was a great place to go hiking or biking. He did not believe they needed to spend \$600,000 when those living there did not want to see a monstrosity built there. He hoped that his fellow Council members would understand why he was voting no.

Councilwoman Suttles mentioned that the railroad crossing sounded good the week prior. However, Lyon had stated that they were not really an option because of some of the mandates.

Mr. Smith noted that the option was not off the table entirely, but it had to be used as a secondary way to stop vehicles and trail use. They cannot be the primary way of making it a safe interface. He said that they could submit the grant application with that option, but since it was not a common traffic interface solution, they were not sure if it would be funded. There was nothing to stop them from putting that in the grant application.

The \$350,000 total for both crossings would include four sets of railroad gates at each of the two intersections. He then said that the cost was not inclusive of railroad gates.

Mr. Nietupski noted that Option C included the beacon with enhanced at-grade crossings.

The secondary railroad gates, if chosen in lieu of the enhanced crossing, would be \$220,000 to \$240,000 per location, on top of the standard features to be implemented to meet the standard design requirements for an at-grade crossing.

Councilman Blair asked why a railroad drop gate would be acceptable to a locomotive and it was not acceptable to a pedestrian crossing.

Mr. Nietupski said that the interpretation from the federal government was that the gates could be implemented but they could not be the primary control at the intersection. If they had a standard at-grade crossing with a stop feature that met the standards the City could then implement the railroad gate.

Mr. Blair asked if they looked at regular traffic crossings as the gates being a secondary. Mr. Nietupski said that he believed they would be the primary in that application. It would be a unique application and they requested that if it went forward that they were provided with the design details, etc. so that they could consider it in future updates to their national standards.

Councilman Lamerson noted that Cortez Street had a crosswalk that was at-grade with no stop signs or stop lights. There were thousands of cars every day. He said that there was also one on Montezuma Street and he did not remember anyone being run over. He asked Mr. Mattingly if an at-grade crossing would be safe for that application, whether enhanced or regular.

Mr. Mattingly answered that based on the anticipated volumes of traffic and pedestrians, assuming pedestrian volumes would be similar to where they measured them today, the guidelines of the MECTC indicate that an at-grade crossing would provide a safe crossing. There was no set table. Looking at many other cities, they would say that the at-grade would be the appropriate choice for either crossing.

Councilman Hanna noted that they were only voting on whether to apply for the grant. A comment was made, that once the grant was received or rejected, it would then be determined whether they were going to do the separated grade crossing. He noted that if they were awarded that grant, pressure would be on them to approve it. That was one reason why he did not believe they needed to file for the grant.

Nigel Reynolds, Prescott, said that working on this grant had been a difficult task and he was not sure where the Council was going with it. He personally thought that the best solution was to apply for a grant for a bridge at Centerpointe East to demonstrate a

commitment to the idea of maintaining the integrity of the Peavine Trail. However, he was pretty sure that the Council was not ready to make that commitment. It could be argued that the current traffic at Centerpointe East did not justify grade separation. He reminded them that the unique nature of the Peavine going north for about five miles without any crossings would not expect a road crossing.

He doubted that enhanced grade crossings would impress the people who read the grant applications, especially since this had been done in somewhat of a rush. Maybe the best solution was to not submit a grant application until there was a clear consensus of what would be successful. Each at-grade crossing that is added degrades the trail.

At Centerpointe East, the Council had spent almost \$20 million on the Side Road interchange. It had to be built due to a commitment to the developer; however, the new interchange was over designed for near term traffic growth. That was an expert opinion, not his. It did not connect to the plan of the Great Western Trail along 89A, it was for the benefit of two developers and the houses and businesses they planned to construct. The interchange design completely ignored the Peavine Trail. The old Side Road was on the Peavine Trail. The new interchange should have included the cost of a grade separated crossing. A less elaborate design of the interchange bridge could have paid for that crossing.

Some of the Council members probably seldom go hiking enough, so their feeling for the trails is that they have a low priority. Some of them are much cozier with developers and often the developers get pretty much what they want. Some of the Council thinks that growth is good for everyone. Many citizens would disagree. There are studies that show that growth does more harm than good. Sooner or later the lack of water will be the ultimate decision maker.

He said that the City Manager was quoted in the Courier saying that developers could not be required to do grade-separated crossings. Almost all developers want their land to be annexed into the City because of the many advantages, including water. In the negotiations the City was in a good bargaining decision. Any road built across the Peavine would degrade it, unless the road was grade separated. It seemed reasonable that the City could say to the developer that they could not degrade a valuable asset that serves the citizens and brings in tourism dollars. That should have been done during the negotiation with Mr. Fann and the Granite

Dells Ranch. The Council at the time was in too much of a hurry and forgot the Peavine. He asked them to please learn from the lesson and not repeat the same mistake during future negotiations of their annexations. He noted that preserving the integrity of the Peavine could be a win/win for residents and developers.

The results of a study that was described to the Council a few months ago which showed concrete examples of trails enhanced values of property. That increased the profit for the developer and the property tax for the City, not to mention increasing tourist dollars and keeping the citizens happy. Spending money on a Tourism Director does not make much sense if Council was going to contribute to the degradation of a trail that had been described as the Jewel of the Rails to Trails System. Council needed to have a long term and short term view when allocating budgets, even in tough economic times. If all available money were spent on road improvements, more money would be desired. 10-20 years down the road, he asked who would remember that the 2010 Council fixed more roads than some other council. People will remember that some past council squandered the opportunity to keep the Peavine as a nationally renowned trail. They will remember that the money for open space was spent on other things. In a few years, that open space will be just more houses. The opportunity to buy it for the citizens will have been lost.

Mayor Kuykendall noted that there was a lot that was rebuttable, but he was not going to take it apart piece by piece. He thanked Joyce Maken for giving him the name and number of Steve Swaggert from San Francisco. He had a lot of experience with trails and was very helpful.

He strongly recommended using a railroad crossing for a trail. There are State and Federal standards for signs and markings that should be used consistently nationwide. This helps trail users and motorists know what to expect when approaching an intersection.

Mr. Swaggert attached the Contra Costa trail use guide which was very helpful for deciding what to do at intersections, which Mayor Kuykendall passed on to the Public Works department. He believed that 30,000 vehicles per day were the criteria for a separated grade crossing.

Mayor Kukendall asked what the anticipated volume of cars on Centerpointe East was. Mr. Nietupski said that the 2030 volume projection was 2300 vehicles and 158 trail users per day for the Road 39 intersection. Centerpointe East projections were 158 trail

users and 6000 vehicles per day. In order to need grade separation, the graph he received required 50,000 vehicles and 2,000 trail users a day.

Mayor Kuykendall said that he was able to make contact with people that had been involved with grants. He was told that because of the limited amount of money, there were a lot of applications in that money cycle and the approving authorities would be looking closely at projects that fit the regulations. Something that was more of a want than a need would not be looked at in the right light to approve the grant. That convinced him that they would not be looked at favorably with the limited amount of money that they have.

He noted that Bill Feldmeier was a Board member of ADOT and was a hiker and cyclist and asked him to come forward.

Mr. Feldmeier said that he spent a couple days over the weekend on some great trails in the Loveland area. He passed through the Wolf Creek stretch of the highway. He noticed that there was a crosswalk across the four-lane highway.

When he was in Council Chambers a couple of months ago, he encouraged them to do nothing more than make it a regular crosswalk and make it as safe as possible. In his trail travels, he crossed roads on a regular basis. He looked both ways before crossing. He did not see it as a distraction at all. He thought it would encourage more people to use it. The pedestrian count did not come close to matching the needs for a grade separated crossing.

Mayor Kuykendall said that with that in mind he would like the Council to consider going ahead and applying for a grant for at-grade enhanced, because he thinks it is the right thing to do. It would provide safety and meet foreseeable needs. He said that 30 to 40 years down the road if a grade separated crossing was necessary, the Council at that time could approach that solution. He would like them to consider the grant application for both at grade crossings for \$350,000, which could be a high figure. Nothing would happen until they knew if the grant had been approved. If it was approved, they could start the process which would fit more in line with where Road 39 was at the moment. The decision for the grants would be made in December.

Lisa Barnes, Prescott, said that the sounded like a decision had been made. It was unfortunate because it had been over a year

that they had been talking about it. She saw it as a value judgment. The Council was looking at need versus wants and spending money in a frugal way. The City, when it decided to build a trail, made a commitment to a connected trail that would go to Prescott Valley and Chino Valley, creating a recreation and transportation corridor. There was a lot of public input and support around that commitment. Now that commitment seemed to be gone. It came down to if the City valued the trail. She asked if they saw the value of it and the benefits that come to the community. The Peavine Trail was named Trail of the Month recently and placed in the Trail Hall of Fame by a national trails organization.

Trails are a quality of life benefit and that had value. It was hard to put dollar value on that. This would be a different conversation, if this was not an existing trail with new roads crossing it. If there were existing roads with new trails, she saw that as very different because the commitment was already there for this trail to have a certain level of experience and safety. The expectation of people using that trail was of a very safe place.

If the City was going to have one design standard to use on making any crossing on this trail, she asked them to please consider that if a child runs ahead of his family on that trail, that child should never, ever be in danger. That was the expectation of people using that trail. They were not in downtown Prescott. The expectation was different. She knew to look both ways. The expectation was not to have to stop and look for traffic. Traffic should have to stop for trail users.

She said that Mr. Feldmeier was an able bodied, experienced adult cyclist, but there were families, disabled people, elderly, using the trail specifically because it was safe. She was frustrated because the item had become so confused and convoluted. They were no longer talking about applying for grants; she just wondered how they were going to make the crossings safe. She was also sad to see that the Tourism Director had left, because the trail was a huge tourism asset in the community and he should know how the community felt about it

She did not think that there was anything to go for with the grant. They did have to make some sort of crossing. She reminded them that it was not the same as a City street and children should not ever be in danger.

Mayor Kuykendall thanked her for her your passion. He spent some time with someone that was just as passionate in a different

way. He had a disability and rode a three wheel scooter. He was passionate and asked that they not put a ramp that he could not go up. He did not have the power in his scooter to climb a ramp.

There were two sides; they recognized that. He said that councils do change and they had to adapt to the days circumstances. He thought that they were trying to do the right thing.

Councilman Hanna noted that Ms. Barnes said that the last Council committed to a trail that would go to Prescott Valley and Chino Valley. He thought that they made the commitment. If they walk the Iron King portion of the trail you will end up in Prescott Valley right now. They will also continue to go on to the back of Chino Valley. He thought that they had done a good job of fulfilling that commitment.

Regarding the expectation of being safe with children; there was a park off Tamarack Road that was out of the way, but there was no separation between the roads and the park itself. The kids could run out into the roads. It was the parent's responsibility to maintain safe control of their children. It was not the City's responsibility to make sure that their children were safe when they were in their parents care.

When he was on the golf course, he had the expectation of being safe. When he crossed the road between 11:00 a.m. and noon, there was more traffic than on Road 39. He had to look both ways. There were kids playing golf. He was not buying the idea that they were not safe. It was not the City's responsibility to make their kids mind and do what they were supposed to do. He had six grandchildren and he would hate to see any of them hurt. He felt that it was his responsibility to make sure that they were safe. He asked that she not try to pass the buck to someone else.

Councilwoman Linn asked what the plans were for an area that they had toured the prior week. Eric Smith noted that it was temporary parking and was just an informal agreement with Yavapai County. It was Yavapai County right of way. Perhaps Mr. Nietupski would know more.

Councilwoman Linn said that maybe it would just be a dirt lot anyway. She said that if people parked there, they would not have to cross the road.

Rob Belan said that he had been working on the project for some time. Prudence was something to think about. He agreed with what

some were saying about the high cost to put in the bridges. Any time they can leverage funds with grants, it should be looked at. In 2009 the City got \$2.6 million in Federal monies for grants. Whether they were total need or some wants, it was important to take the money the City had and make it go further. If they were Transportation Enhancement grants, for 5% of their money, they could get 100% of a project.

If an overpass was put in, Centerpointe East would probably be the best location due to the width of the road and the potential traffic. There was a high school there, and a trail head. Road 39 was a different tiger. What was really important was to look at the goals of the trail. The #1 goal should be safety. Get the best bang for the buck. The continuity of the trail would be another goal. If there would not be traffic on Road 39 for 20 years, they should put stop signs on Road 39 for those cars that would not be there for 20 years. The trail users would have continuity of the trail and they would not have to stop and it would allow the users to get to 89A where there was a trailhead. They could then reduce the grant by half.

If traffic increased on Road 39 and the cars were inconvenienced, having to stop for trail users, they could look at an actuated light in that area.

Councilwoman Linn asked if he was saying that an enhanced grade crossing at Centerpointe and stop signs for cars at Road 39. Mr. Belan said that there would be a cross walk, stop signs and probably some type of sign to say crossing ahead; something to show that the trail had the right of way to cross the road.

Charles Coon, Prescott, said that he could appreciate the comments from the person with a handicap. He was in the same position. He appreciated Mr. Hanna's comments. He thought that they had to have common sense to warn both drivers and trail users of the danger of crossing the street. In California he managed a company where there was a parking lot on one side and had to cross a 55 mile per hour road to get to work. They had to put an enhanced crosswalk and push button and markings down the road. They moved 150 people a day back and forth, during the night, and had no issues. Before that they had a person walk out in front of a car. Going to an enhanced elevated crossing would hinder that. He would not want a child to run over a bridge, unsupervised.

Susie Halen, Prescott, noted that she had read some comments in the newspaper on line. One said that at-grade crossings urbanized the trail experience. From Road 39 going north, the Peavine had the potential for four crossings in about one and one half miles. It was the small things like that that destroyed the small town atmosphere. Another writer noted that the first casualty of an at-grade crossing would probably be between a cyclist and vehicle. A posting said that one of the reasons for the interchange was because the high school kids at Tri City Prep were entering and exiting the highway at Side Road with no traffic signals and no controlled access. ADOT said that the situation was too dangerous to continue in its current condition. She believed that the combination of inexperienced drivers and young cyclists was a recipe for heartbreaking disaster. When someone was killed on the Peavine the citizens would forget the money that was trying to be saved. She asked for the Council to vote for their commitment to public safety.

Jim Lawrence said that after the first workshop on the Peavine, the crossings needed to be looked at as a whole unit. Unfortunately when they got ready to start on this, the project that had begun was for Road 39 only. With the engineering work, the citizens came out with a solution for the 39 crossing as if it were the only one there. The conclusion to apply for the grant was the best solution if the Peavine had only one crossing. But, that is not the case. To have the Peavine addressed with the proper solution on Road 39 and ignoring the others was insanity. To have a grade-crossing or enhanced grade crossing was equally insane. That was a trap that would cause people to be killed. It would be worse than having the stop sign.

At this stage he would suggest that other than applying for a grant strictly for Centerpointe for some type of enhanced crossing, which would be the only logical thing to do, he did not think they were ready to come up with a grant that would get serious consideration. He thought that they should not do anything for the current deadline. They would then be able to apply for a grant with all of their homework done on the next cycle.

Mayor Kuykendall said that he thought he understood that they had the work done to complete the grant application for Centerpointe East with an at-grade crossing. Mr. Nietupski said that the Centerpointe intersection would be a four way stop. There would be ADA ramps providing connectivity to the trail on the east side of Side Road.

Councilwoman Linn asked what the speed limit was on those roads. Mr. Nietupski noted that it would probably be 30.

Councilwoman Lopas said that it was not likely that they would get the overpass grant, which was disappointing to her. She noted that Prescott had a lot of international tourists and it was not just the local people they were talking about, plus horses. There were two developers; one was putting in all of the grading for a potential bridge and the other one put in a trail which she thought was on the wrong side. It should be closer to Granite Dells and not on the other side of the crossing.

She said that the City still had not come up with a policy regarding trail crossings. They needed to look at it as a whole. As far as grants, she thought it was important to bring the money back to the community. Saying no was not going to fix the process. It was their duty to bring grant money back to the community. She would like to see the bridges, but did not think that it would be likely to get the grant.

Councilman Blair said that they had no money. Based on the information by professionals, including the City's own staff, it seemed irrelevant for him to support going for a grant at that point.

Councilwoman Suttles said that if someone on the Council did not come up with one of the letters, then it would die.

Mayor Kuykendall said that the present design, the construction on Centerpointe East would be a four way stop. Mr. Nietupski said yes. It would be marked with crosswalks and advanced warning signs on the trails as well. There would be no buttons or flashing lights.

He said that the Council approved Road 39 with stop control. Trail users would have advance warning signs as well.

Councilman Blair said that he did not know why they would need a grant for that. Councilwoman Lopas said that the grant was for a light. Councilman Blair said that he had at least four handicapped people asked him not to put in a grade separated crossing.

Councilwoman Lopas said that if there was a light stopping traffic they would have an easier time crossing. If there was no light, the traffic may not see someone in a wheelchair.

Mayor Kuykendall said that he would have no problem supporting the enhanced crossing with electric controls and flashing signal.

Councilwoman Linn one of the comments that she had not thought about was that the enhanced at-grade was different. They said that was out of the ordinary. People were expecting to stop at a four-way stop. At Tri City Prep, they were not going to be crossing the intersection; it was within 100 feet. They would not hit that intersection. There was no justification for a stop light. Regretfully, she did not think this was time to apply for the grant as well.

She apologized and said that she walked the trails a lot. She did not want to apply for something and then they would not be able to finish it because the City did not have the money. She wanted to keep the trail walkers safe.

Mayor Kuykendall said that the motion would be to adopt A, B, or C.

Councilwoman Suttles said that if he felt that he would get a vote from the Council, he should make a motion and she would second it, but she would not vote in support of it

Councilman Lamerson said that he would let it die for the lack of a motion. Mayor Kuykendall said that he would be willing to do that. No motion was made.

IV. ADJOURNMENT

There being no further business to be discussed, the Prescott City Council Regular Meeting of August 10, 2010 adjourned at 5:00 p.m.

MARLIN D. KUYKENDALL, 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 10th day of August, 2010. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2010.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
WORKSHOP
TUESDAY, AUGUST 17, 2010
PRESCOTT, ARIZONA

MINUTES OF THE WORKSHOP OF THE PRESCOTT CITY COUNCIL held on TUESDAY, AUGUST 17, 2010 in the COUNCIL CHAMBERS located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Kuykendall called the Workshop to order at 2:01 p.m.

◆ **ROLL CALL:**

PRESENT:

Mayor Kuykendall
Councilman Blair
Councilman Hanna
Councilman Lamerson
Councilwoman Linn
Councilwoman Suttles

ABSENT:

Councilwoman Lopas

I. PROCLAMATIONS

- A. February 8, 2010 – 100th Anniversary Boy Scouts of America.

Councilman Blair read the proclamation and presented it to a representative of the Boy Scouts of America.

- B. September 6 – 12, 2010 – Patriotism Week.

Councilman Lamerson read the proclamation and presented it to Lt. Andy Reinhart of the Prescott Police Department.

- C. September 11, 2010 – March for Babies Day.

Councilwoman Suttles read the proclamation.

II. PRESENTATIONS

- A. Introduction of new businesses.

Dave Maurer, Executive Director of the Prescott Chamber of Commerce introduced a new business:

Todd Beck, Green Living Magazine, said that he was based out of Flagstaff but would be covering the Prescott area. He said that their magazine would launch on September 1, 2010 and would be focusing on living, working and playing “green.”

- B. Board / Commission Liaison reports.

See Page 4.

III. DISCUSSION ITEMS

- A. Discussion and direction re the discontinuation of air service by Horizon Airlines from the Prescott Airport.

Airport Manager Ben Vardiman gave a PowerPoint presentation, Exhibit A attached hereto and made a part hereof, regarding the discontinuation of air service by Horizon Airlines, which addressed the following issues:

- ▶ DISCUSSION REGARDING DISCONTINUATION OF AIR SERVICE BY HORIZON AIRLINES FROM THE PRESCOTT AIRPORT
- ▶ KEY DISCUSSION ITEMS
- ▶ ANTICIPATED BUDGET IMPACTS
- ▶ FAA CLASSIFICATION – Policy Question
- ▶ FAA CLASSIFICATION – Background Information
- ▶ FAA CLASSIFICATION – Key Considerations

Councilman Lamerson said that he thought the City had been informed that when they went to a larger plane they had to meet different requirements for safety issues. Mr. Vardiman said that was a requirement of the TSA, not the FAA.

- ▶ TSA CATEGORIZATION – Policy Question
- ▶ TSA CATEGORIZATION – Background Information
- ▶ AIRPORT BADGING PROGRAM

Councilwoman Linn said that one of the things that came up with the City's volunteer program was the background checks required and it was great to find out that the airport could provide that service.

▶ TSA CATEGORIZATION – Key Considerations

Councilman Hanna said that the \$7,500 did not include personnel time, and asked if they had any idea how much they were saving by not doing that. Mr. Vardiman said that to meet those requirements they delayed and deferred some noncritical issues, such as auditing grant files. When they removed the badging system there would not be a savings in staff time, but it would allow them to do those other projects that were previously delayed.

▶ STAFF'S RECOMMENDATION

1. Reapply with TSA to go to a Category IV status.
2. Reapply with FAA for Class II status

Councilwoman Suttles asked how they decided which way to go. She asked if they had time to get a group of airport users together. Mayor Kuykendall said that today was for information only and the public input. There would be a lot more information to come forward.

Councilman Blair said that he would like to see the upside and downside of both of the questions.

Max Bandy, Prescott, asked how the category and class co-exist. Mr. Vardiman said that they did not; they were separate branches of the federal government and separated from each other.

Mr. Bandy asked why the City went to a Category III. Mr. Vardiman said that they had to go because Horizon was having daily flights, and they had to go to a Class I because Horizon was having daily flights in planes larger than 31 seats.

Mr. Bandy asked if they would lose the ability to go back to those categorizations and classes if they changed now. Mr. Vardiman said that they could always go back and reapply in the future.

Jay Willis, airport user and hangar owner, said that there were quite a bit of negative feelings when the Category III was applied for as many felt it was a burden. He said that if there was no significant need at this time for a Category III a lot of them felt it was useless and an unnecessary burden.

Mayor Kuykendall noted that the Airport Users Association would be having a meeting later in the evening at 7:00 p.m. at the Airport Administration Building.

B. Board / Commission Liaison reports.

At this time Mayor Kuykendall returned to Item II-B.

Councilman Lamerson said that awhile back one of his colleagues suggested that they have an item on the agenda to allow for reports to be given on the various boards and commissions of the City by the Council liaisons. He then briefly reviewed what he was involved with. He said that he was the Council liaison to the Planning and Zoning Commission, which was one of the commissions impacted by the recent changes made to the board/commission process, including the selection of chairman and vice chairman by the Council.

Councilman Lamerson said that he sat as one of the three liaisons on the Uniform Development Code Committee and they had been working on a number of issues addressing things such as codes that may not be necessary.

He said that he was also involved with the Tourism/Economic Development group and along those lines had been chairing the Water Issues Committee that was looking at the lakes and related issues. He then asked Mr. McConnell to describe some of what may be coming forward in the near future with regard to the lakes and water.

Mr. McConnell said that the City had before the Arizona Department of Water Resources, and in court, their application for modification of assured water supply. With respect to what Councilman Lamerson mentioned, they did have in effect the City's Water Management Policy which extended through the calendar year 2010. They had been saying that when the litigation was resolved that would be the point from which they formulate a long-term water policy. And, since the formulation of that long-term policy may take some time, they may need an interim policy for 2011.

He said that the long-term policy would have a couple of components in terms of resource. First would be the renewable water (or alternate water). Second would be the importation of the Big Chino water at such time as a pipeline is constructed and it becomes available. That was associated with the 2025 mandate for safe yield. They would need to create, for consideration of the Council and public, some water management scenarios.

Councilman Lamerson said that one of the questions that they had not resolved had to do with the arbitrary 80/20 distribution and he assumed that would be addressed in the long-term policy.

Mr. McConnell added that the water management policies would rely in part on certain growth assumptions which tied in with the cost sharing on meeting safe yield.

Councilwoman Suttles reported that she served on different water groups: Yavapai County Water Advisory Group (WAC), Upper Verde River Watershed Protection Coalition, and the Water Issues Committee. She said that she also served on the Hospital Board of Electors, the CYMPO Board, the Council Appointment Committee (along with Councilmen Blair and Hanna); the Uniform Development Code Committee (with Councilmen Hanna and Lamerson), the Prescott-Yavapai Enterprise Zone Commission and the Parks and Recreation Board. She said that she was pleased to be selected to serve on these boards/commissions and that if anyone had any questions, they should contact them.

Councilman Blair said that it was a pleasure to see the different people placed on different boards. He sat with Mayor Kuykendall on the Board of Adjustment and Preservation Commission, the Prescott-Yavapai Enterprise Zone Commission and the Council Appointment Committee, as well as the Water Issues Committee (with Councilwoman Suttles and Councilman Lamerson).

At this time Mayor Kuykendall recognized Judy York who was present to accept the proclamation for March for Babies which had been read earlier in the meeting. He presented the proclamation to her and Ms. York noted that the March would take place on September 1 beginning at 7:30 a.m. and if anyone would like to join them they could visit www.marchofdimes.org.

Councilwoman Linn said that she and Councilmen Hanna and Lamerson worked together on the Board and Commission application process and brought forth changes which were adopted. She said that they also served on the Charter Amendment Committee that reviewed the entire City Charter, with 8 of the 22 proposed changes being on the November ballot.

She said that she also serves on the CDBG Advisory Committee and served as the Council liaison to Access 13. She also met with the Centennial Committee, which will kick off in September 2011 in Prescott, and had also been working with the VIP (Volunteers in Prescott) through the HR department of the City.

Councilman Hanna said that he served on the Prescott-Yavapai Enterprise Zone Commission with Councilwoman Suttles and Councilman Blair, and also the Council Appointment Committee with them.

He also served on the Uniform Development Committee which was a challenging process. He said that he had always believed that the City interfered too much with the private sector so they were trying to revise some of the codes and looking at ways to make everyone's lives easier.

Mayor Kuykendall thanked all of them for their service on the many boards and commissions. He said that they started out with one-third more than they presently have, but they still have quite a few. He said that he was also involved with the Preservation Commission which met when there was a need on issues affecting the historic area. He also represented the City on the Public Safety Retirement Board as well as Tourism and Economic Development. He said that he was also involved with NACOG which usually met in Flagstaff.

B. Discussion and direction re water/wastewater rate increase.

Mr. Nietupski said that in January of 2010 Dan Jackson of economists.com reviewed his updated study on the water and wastewater rates. At that time the Council took no action to change the rates. Additionally, the moratorium on impact fees took place retroactive to June 29, 2009 through 2012.

He said that there were serious needs in the utility systems, both water and wastewater, with capacity deficiencies in pipeline sizes, storage and pumping in the treatment processes for wastewater. He said that during the January presentation Mr. Jackson provided an analysis on four scenarios with most discussion centered on Scenario #2 which included water and sewer rate increases, but did not include the Big Chino project.

He said that the total for Scenario #2 was around \$254 million and centered on a program from 2010 to 2019. The rates that were generated from Scenario #2 were identified on the sheet provided. Because they did not initiate the rates proposed in January, the rates the City was currently using did not fund the needed projects and staff recommended that the Council move ahead with a rate study update and proceed with the process.

One of the options was to look at the program over a shorter duration and reduce the amount of projects. Staff would be back in the future to look at additional projects that were still necessary to improve the utility systems to meet the needs of the community.

They had a situation in the wastewater treatment that put the City in a precarious position. If they did not implement improvements to their treatment facilities, particularly at Airport and Sundog, they faced serious challenges to provide services in the future. The City could be faced with

a situation of not having capacity. Every time a plat was approved, capacity assurance was required by the Department of Environmental Quality. A professional engineer looked at the system and certified that the City had the capacity to treat the wastewater that would be generated by that project. They were at a point where the City could no longer assure additional capacity at the airport.

In the near future, when development came back, the City would not be able to approve plats. The City was at 95% capacity to treat wastewater at the airport plant. If they were unable to continue to expand that facility and could not treat the waste stream, they could be in a position where building permits might fall into a moratorium.

If the City could not treat the wastewater, they would face issues with ADEQ with respect to that issue which could be costly. He noted that it was a serious situation.

Councilwoman Suttles asked if they could look at Mr. Jackson's rate increase information, or if they would have to do another study. Mr. Nietupski said that the study should be updated. Councilwoman Suttles asked how much that would cost. Mr. Nietupski said that it would be around \$20,000.

Councilwoman Suttles said that they did not have a lot of choices. She was hoping that the public would understand where they were with this. She would like to see three to five top projects that staff would like to do with water and sewer.

Mr. Norwood said that they could do that. He said that there was a Capital Improvement Plan and that they realized that times were different than when the plan was developed. Some of these projects could be moved out. They have identified those projects that were critical. They were tied to road projects that were coming up and the wastewater plant.

Councilwoman Suttles said that they get lost in the number of projects that they wanted to do. She said that it would be easier for the public to see what had to be done first and then go from there.

Councilman Lamerson noted that they were talking about standards that were set by someone above and beyond their capability. It looked to him like the City was compromised whether anyone moved there or not. There were some things they had to do regardless of new development, because the water and sewer lines were old and starting to fall apart. They could not depend on someone new moving there to pay to fix those things. There were basic services that had to be provided.

Councilman Hanna said that he had been asked why they wanted to raise rates. The City had to maintain what they had. People wanted to move here but wanted the rates to stay the same. That was not the way it worked. If the City was going to maintain the system they had to do something. None of them wanted higher rates, but they had to do it.

He asked Mr. Nietupski where the City fell in the category with comparable communities of their size. Mr. Nietupski noted that from Mr. Jackson's presentation, for the kind of city Prescott was, concerning their resources and the way they must produce and supply water, there were some more costly and some a little less. For the kind of city Prescott was, they were where they needed to be.

He said that Mr. Jackson had pointed out that rates were going to increase for water and wastewater systems throughout Arizona. There were costs that the City would incur for production, electricity and employee costs.

Councilwoman Linn agreed that there was a public health and safety need. There were a lot of implications if they did not do something. She noted that looking at that chart from April 2010 and 2012 to 2013 the rates would go up \$11.50. That was the highest per month increase. It was an average of \$5.50 a month per year.

Mayor Kuykendall said that they knew this in January. It was the current Council that chose to get through the summer and when the winter got here, when the usage was lower, they would look at it again. They had embarked on an expansion and improvement program for the roads. In order to bring some of the streets up to standard, they had to replace water and sewer lines. One thing that may be in the City's favor was that some of the consultant's projections may be lower now than last time.

He had been talking with a major consumer that morning who was concerned about his bill going up. Volume was what brought in money. They had less use of water. The City's income was less than they were used to but their costs had been flat. None of them want it but they want the faucet to work.

Mr. Norwood said that the budget they just approved reflected a rate increase.

Councilwoman Suttles noted that they had looked at the high user rates and that they would now have to look at the lower users. Mr. Norwood said that their recommendation was going to be getting the bulk of the rate payers. They had been focused on the high water users and developing an inverted tier to the rates, so the more they used, the more

they paid. They have tapped that as much as possible; now to get the money they needed for the projects, they would need to look at the base rates and 85% of the users.

Mr. Hanna said that he did not understand why they had to do another study. Mr. Nietupski said that the study justified the rate increase.

Mr. Norwood said that before they did any type of a study, they would look at it internally to prevent added costs. Councilman Hanna said that it did not make any sense and that if it needed to be justified to the Council, he did not think they had to do that. He felt that the public also understood that there needed to be an increase.

Councilwoman Suttles said that they had been studied to death and had reports and back up reports.

Councilman Lamerson said that they did not need a study at that time. He asked staff to bring them the list of things that they needed to do.

Daniel Matsen said that he was not happy with how high his water bill was, but he would rather have it done soon and a little bit, instead of waiting and have a huge increase.

C. Discussion and direction re Granite Creek Park gate access.

Ms. Hadley noted that currently there was a fence that divided the Depot Market Place and Granite Creek Park. Over the past few months merchants and visitors to the Marketplace wanted the gate closed and the park and trail users and some residents wanted the gate open. Staff went back and looked at the supporting documents when the Depot Marketplace was first rezoned. There were some conditions to the rezoning. After having Legal look at those they did not feel that any of the conditions mandated that it be opened or shut.

They checked with the departments who were most affected: Parks & Recreation, Police and Fire. When Parks & Recreation closed the gate, they had people take it off its hinges. The City then welded the hinges and put locks on the gate. They then dug under the gate. Currently it was open. The Fire Department had not seen a tremendous change when the gate was closed. The Police Department saw a tremendous decrease in calls for service when the gate was closed. The Code Enforcement department did a survey of retailers closest to the gate. Of those they talked to - eight wanted to keep it locked, one wanted it open and one no opinion.

She read the legal interpretation of the language on the plat. The City had the right to lock the gate, open the gate, or abandon the easement.

Councilman Hanna said that if the majority of the merchants in the area wanted it locked, it needed to be locked. He did not believe that the trail users and walkers were the ones who dug under the fence or the ones who cut the lock. There was an element in the park that did that, and those are the ones that Police Department dealt with. He had gotten a number of calls, and personal contacts made, from people that did not use the park because of the element of people in the park. If the Council can get them out by doing this, they should.

Daniel Matsen said that having access to the stores was very useful. There was an element that was a problem. He thought that they should be aggressively prosecuted if they broke the law. Those consuming alcohol were the biggest problem. The vast majority of the homeless people were just enjoying the park, and they had to be somewhere. There were probably only a dozen people causing the problem. The gate access was very useful to a lot of people.

Councilman Hanna asked if walking 300 feet was that much out of the way. Mr. Matsen said that to some people that was a problem, because the ground was not as level as the path. He said that it would be just as easy for the criminal element to walk the 300 feet. He noted that the park was also closed for a considerable amount of time which may have skewed the statistics.

Ann Alexander, a resident near the park, said that she used the park quite often. She was also a trail user and really enjoyed the privilege of having such a beautiful place. She did not understand the rationale of closing the gate and making a citizen walk to the street, back and around a difficult access, to buy fried chicken to go to the park for a picnic. She wanted proof that there were vagrants pillaging the businesses. She also asked what the advantage of open gates was to the vagrants who were pillaging businesses. She did not think that closing the gate was a graceful way of treating the citizens.

Mr. Smith, Manager of Albertsons, noted that there was a huge concern at the store as well as with others in the complex for the safety of customers and associates. The element adds costs to the store with the theft, damages, and the constant cleaning up in front of the store. They believed that closing of the gate was the best thing for the center.

Mayor Kuykendall asked why an easement was placed there. Ms. Hadley noted that it was a utility easement and emergency access. Mayor Kuykendall said that it would not be a City easement if it were a utility

easement. Ms. Hadley said that it was given to the City in a nonexclusive manner.

Mr. Podracky said that the City of Prescott owned the easement. One of the options was to abandon the easement back to the property owner.

Mayor Kuykendall asked if the City of Prescott did that, and the property owner put a fence or gate up, why that would not be a logical conclusion. Most shopping centers had a wall around the complete center. He asked why there needed to be an easement and gate there.

Mr. Norwood said that there were no utilities in there at that time. Mayor Kuykendall said that they should abandon the easement and let the shopping center owner do what they wanted with their property. They could post it as no trespassing.

Mr. White said that a fence with no access would be the best way to go. Mayor Kuykendall said the tenants should dictate what the property owner did with the property.

Mr. Reinhardt said that they had seen a big decrease in crime. By closing the gate, he was not sure there would be a trespassing issue because both sides would be open to anyone with the right to be there, unless it was posted no trespassing.

Councilwoman Linn said that there was only one part of that property that had signage. There was no signage except M&I Bank, which had no overnight parking. It had to be posted so they could prosecute.

Councilwoman Suttles said that there would still be a way to get in behind Starbuck's.

Councilman Blair said that he was a supervisor in that park in 1979. There was not an access that came off of Montezuma Street that entered the park because it was not developed. The trail was a jogging trail when it first went in. The only access was Sixth Street. He said that gate was put in for access until it was fully developed. There was a trailhead on Montezuma Street, 300 feet away from the gate. There was a greenway trails trailhead at the restaurant, at the monument across the street. There were six different access points to the park. If it was so difficult to make it safe for the merchants, they should tear the whole fence down. The people at the Depot Marketplace do not pay for people to park in the parking spots to go to the park. They pay for the businesses to make money. If someone wants to use the park, they could go around to the sidewalk. The gate needs to go away.

Councilman Lamerson said that they did not need an easement there because there were no utilities. Ms. Hadley said that she could only refer back to the plat language that stated that it was a nonexclusive access to the City of Prescott for public/pedestrian ingress and egress. It did not mean they had to have it open.

Councilman Lamerson asked what the public ingress and egress would be to. Ms. Hadley said that it was between the two properties. Councilman Lamerson said that if there were no fence, they would not have the same ability to go from one property to the next. He said that they should give them back the property.

Ms. Hadley said they if they abandon it back to the LLC it then would become theirs and they had the right to take the fence down or keep the gate open.

Councilman Blair said that the intention was for that gate to go away.

Councilman Hanna said that they should give it back to the LLC. People needed to understand that when they start losing a lot of merchandise the prices go up.

Lisa Barnes, Prescott Alternative Transportation, noted that if they were saying the only way to get to the park was the gate, she did not know it existed and it was not easily accessible to bicyclists. Now they were trapping in the trails. If they were saying that the best bike access was across the street, then it needed to have a better entrance and exit. Councilwoman Linn asked what about where it came up on Montezuma. Ms. Barnes said that it was not easily accessible to bicyclists.

Councilman Blair said that it was four feet wide on each side of the road with hard pan crushed granite. Ms. Barnes said that if someone was riding down Montezuma, she wondered where they would get up to the trail. Councilwoman Linn said that if they went to the Staples where the gate was, that would not be good for a bicyclist and was not ADA accessible.

Ms. Barnes said that if they were on the trail from the Dexter neighborhood, it was easily identified. According to the ordinance, they needed to mark the entrance to the park better for pedestrians and add bicyclist access as well.

She also noted that in the West Granite Creek Park Master Plan, a priority was that the greenways trail would have an easy, nonmotorized access to businesses. She said that it was a problem. If they were getting rid of the most easily identifiable access point, then they needed to solve

the problem of bikes and pedestrians accessing the businesses. Councilman Hanna agreed and said that there needed to be more signs.

Ms. Barnes said that they could not deny access to pedestrians and bikers because the trails had been built to be used as a corridor. She said that crime had been down in the City the past five years and felt that the report may have been misleading and unfair. Councilwoman Linn said that crime went up when the gate was opened. She said that Mayor Kuykendall had put a task force together and they were addressing the issue.

Ms. Barnes said that the issue was beyond a gate. It was a series of problems that needed a solution.

Jim Knapp, 200 Parker Road, also owned business property within ½ blocks of Granite Creek Park. He had been familiar with the park for over 35 years. As changes had come to the park they had all brought light to the park. The idea was that sunshine was the best disinfectant. He felt that the move would be going backwards. Back when the park horse went in, it increased the use of the park. Back when YCC put in the rail gates it increased attractiveness of the park. When the bridge was put in, it increased the visibility of park and the number of good people that went there. Each time it drove away the undesirable element. Closing the gate may create a better place for the criminal element to hide out if the access was more limited

There were murders of transients by the trestle bridge. The more connectivity and the more people were allowed to go through there, the less the undesirable element would find it desirable. He would think that the emergency services would like it there so they could zoom in on them. He had personally witnessed crimes including stabbings that John Phillips witnessed. He wanted it to be as opened as it could be. Blocking off access to the park would not do that.

Bill Rice said he was a Dexter Neighborhood resident who lived on the far west end of Madison Street. He suggested that either the police could lock the gate at 6 p.m. and open at 6 a.m., or put a stile in it. Mayor Kuykendall asked if crime only happened between 6 a.m. and 6 p.m.

Mr. Rice said that it did not, but he thought that crime flourished in the dark. He did not think that a locked gate was appropriate to have in *everyone's hometown*. A lot of his neighbors use that shopping area. For some of the older people it was not very easy for them to go all the way down to Montezuma.

Mayor Kuykendall asked what would have happened if when the center was built they had put a 6 foot wall all the way around it. Mr. Rice said that no one would shop there from his neighborhood.

Councilman Lamerson asked Mr. Podracky why they did not just give the easement back to the property owners and let them deal with it. Mr. Podracky said that it was one of the options.

Councilman Blair said that he would like Ms. Horton and Mr. Legler to look at the access point off of Montezuma. It was clear that the bushes needed to be trimmed and the Park needed to be signed for bike and pedestrian access. Going northbound needed to be looked at and he wanted a report on that.

D. Discussion and direction re Council meeting schedule.

Councilwoman Suttles showed a schedule that Ms. Burke and the City Manager had devised. Mayor Kuykendall noted that Councilman Blair wanted to change the 3rd Tuesday to the 1st Tuesday. Councilman Blair said that it would make sense that the Chamber would give there presentations of new businesses at the first of the month as well as the proclamations and presentations and then leave everything else the same.

Mr. Norwood asked him if he was saying that they should have a meeting every Tuesday, or that the third Tuesday would be optional. Councilman Blair agreed with the second option.

Ms. Burke asked him if he wanted the Boards and Commission reports every month. Councilman Blair said as needed. Ms. Burke asked if someone would let her know when it was needed. Councilwoman Suttles said that if they had something to report, they would get to her in time to have it on the agenda.

Ms. Burke noted that in the Rules of Procedure that the Council adopted, it stated the process to follow when someone wanted to speak under public comment. At the moment, it was on the second and fourth Tuesday. She suggested that the last rule would allow the Council to suspend a rule and thought that they should suspend the rule until the end of the year.

Mayor Kuykendall asked if they needed to give instruction to staff on any of the items.

Mr. Norwood said that if they amended the plat or abandoned the easement, it would require Council action. The Council wanted it on the

next agenda. Mr. Norwood said that they would have the gate surveyed. He thought that it was on City property.

Councilwoman Suttles asked if they would be having another workshop on the wastewater issues. Mr. Norwood said that they would bring it back to them with the five priority projects and the rates needed to implement them.

Councilman Lamerson asked them to look at the projects with respect to what they were going to earn the following year.

IV. ADJOURNMENT

There being no further business to be discussed, the Prescott City Council Workshop of August 17, 2010, adjourned at 4:24 p.m.

MARLIN KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

COUNCIL AGENDA MEMO – August 31, 2010

DEPARTMENT: City Manager's Office

AGENDA ITEM: Public Hearing: **Analysis of Impediments to Fair Housing** as associated with the City's Community Development Block Grant (CDBG) Program

Approved By:

Date:

Grants Administrator: Linda Hartmann	August 19, 2010
Community Planner: Mike Bacon	August 19, 2010
City Manager: Steve Norwood <i>Ray H. Lounsbury for</i>	8-24-10

BACKGROUND

The City was notified of Community Development Block Grant (CDBG) Entitlement eligibility in August 2004. There are two primary HUD requirements that the City must meet to *continue* its "entitlement". The first includes the development and approval of the Consolidated Plan 2010-2014 and 2010 Annual Action Plan (approved by Council on 5/11/10 and submitted to HUD). The second requirement is an Update to the Analysis of Impediments to Fair Housing (AI) which is a supporting document to the Consolidated Plan. The first AI was written by the City's Consultant—the Southwest Fair Housing Council (SWFHC) — and was approved by City Council on 7/26/05. This 2010 Update has been written by City Staff.

PROJECT DESCRIPTION

1. The City is required to conduct an analysis to identify impediments to fair housing choice with in the jurisdiction;
2. To take appropriate actions to overcome the effects of any impediments identified through the analysis; and.
3. To maintain records reflecting the analysis and actions taken.

The 2010 AI Update as drafted meets HUD guidelines.

SUMMARY

Fair Housing Act provides policy that prohibits discrimination in the financing, sale and rental of housing because of race, ethnic origin, religion, disability, or familial status. HUD requires that communities receiving federal funds use some of those funds to study and as necessary create strategies and/or actions to address Fair Housing issues. The first AI involved SWFHC along with Staff, members of the Citizens Advisory Committee and community members who studied and discussed Fair Housing. The following subjects provide the AI framework (as suggested and/or required by HUD):

- Fair Housing Education and Outreach
- Affordable Housing
- Subsidized Housing
- Predatory Lending
- Zoning Issues
- Not In My Backyard (NIMBYism)

The Summary of Impediments is attached.

Recommended Action: (1) **MOVE** to close Public Hearing; and (2) **MOVE** to approve the Analysis of Impediments to Fair Housing and to authorize Staff to submit the Analysis to HUD.

SUMMARY OF IMPEDIMENTS

The AI, in response to perceived impediments, suggests a variety of education and outreach activities over the next five (5) years (2010-2014). These activities will occur by utilizing existing state and federal programs and resources with existing City Staff providing assistance on locations, facilities, public information and advertising. Additionally, Staff will engage in an on going process of information gathering and referral process associated with fair housing questions and or complaints. The following is a summary of the Impediments and Action Plan.

Seven (7) impediments to Fair Housing were listed in the 2005 AI and are also listed in 2010. A few have been modified due to actions taken by the City from 2005-2009, and reported in the Consolidated Annual Performance and Evaluation Reports (CAPER). The current 2010 Updated Impediments along with a timeline are summarized below:

2010 Action Plan Summary Matrix

IMPEDIMENT / TIMELINE	ACTION (Summary)
<p>1. Continue and Improve Mechanisms for Fair Housing Enforcement</p> <p>1. June 1, 2011</p> <p>2. December 1, 2010</p> <p>3. On-going</p> <p>4. On-going</p> <p>5. November 1, 2010</p>	<p>1. The City of Prescott will facilitate the conduct of fair housing Education and Outreach (E&O) in Prescott to train Housing consumers to identifying housing discrimination and to employ additional means <u>to</u> inform them where to go for help (See Impediment #2 and Strategy #7 Task #1).</p> <p>2. The City of Prescott will facilitate training of additional agency Staff to recognize when callers and clients encounter illegal housing discrimination. (See Strategy #1 Task #1).</p> <p>3. The City of Prescott will maintain a clear and consistent procedure to refer allegations of fair housing violations to agencies that can provide information and help, including taking, investigating and filing complaints.</p> <p>4. The City of Prescott will in a log of all allegations of fair housing violations or requests for fair housing information and encourage private agencies to do so.</p> <p>5. The City of Prescott will identify additional fair housing resources provided by State agencies, determine what resources would be available to Prescott and coordinate their implementation in Prescott.</p>

<p>2. Continue Fair Housing Education and Outreach</p> <p>1. On-going</p> <p>2. On-going</p> <p>3. January 30, 2011</p> <p>4. On-going</p> <p>5. On-going</p> <p>6. On-going</p>	<p>1. The City of Prescott will coordinate with state and national agencies to provide fair housing training to housing providers in Prescott.</p> <p>2. The City of Prescott will facilitate training and the provision of information regarding fair housing rights to housing consumers.</p> <p>3. The City of Prescott will continue the distribution of fair housing brochures at high traffic sites in the community and now include apartment property owners.</p> <p>4. The City of Prescott will facilitate the development of a list of fair housing resources with phone numbers, mailing addressees and web sites. These will be incorporated into and distributed with other education and outreach materials.</p> <p>5. The City of Prescott will encourage and participate in events to foster an awareness of fair housing.</p> <p>6. Fair Housing Posters will be displayed in City offices and sites. The City of Prescott will also encourage these posters to be displayed in private agencies.</p>
<p>3. Need for Affordable Housing</p> <p>All actions are On-going.</p>	<p>The City of Prescott will charge the Grant's Administrator the following responsibilities:</p> <p>1. Review information associated with the Consolidated Plan and fair housing activities.</p> <p>2. Monitor the impact and progress of the AI Plan of Action</p> <p>3. Report annually to the City of Prescott regarding actions and discussions on fair housing issues. This report will be incorporated into the City's annual report to HUD.</p>

<p>4. Lack of Subsidized Housing</p> <p>All Actions are On-going.</p>	<ol style="list-style-type: none"> 1. Increase the supply of homeownership units affordable to low and moderate income households through a) supporting organizations that develop affordable homeownership units, and b) when appropriate, rezone for higher density projects subject to water availability. 2. Support the development of rental units affordable for extremely-low income households primarily through encouraging Low Income Housing Tax Credit Projects (LIHTC).
<p>5. Predatory and Discriminatory Lending Practices</p> <p>All Actions are On-going.</p>	<p>Predatory Lending:</p> <ol style="list-style-type: none"> 1. The City of Prescott will encourage the inclusion of information on predatory lending in fair housing education and outreach materials as well as trainings and presentations. 2. The City of Prescott will encourage the gathering of information on predatory lending as it becomes available from complainants, informants, and other sources. This information will help inform community advocates identify abusive lenders and forewarn people of their tactics. 3. The City of Prescott will coordinate planning with outside resources (Such as SWFHC) to make available information and programs to people who are victims of predatory loans. <p>Disparities in Lending:</p> <ol style="list-style-type: none"> 4. The City of Prescott will monitor HMDA reports to determine trends and include this in its annual report to HUD. This information will allow for further planning and action regarding fair lending 5.
<p>6. Exclusionary Zoning</p> <p>On-going.</p>	<p>The City of Prescott will initiate an ongoing assessment of the impact of the new amendments to the Land Development Codes on fair and affordable housing. This assessment will occur prior to the adoption of any amendment, entail bi-annual reviews and systematic analysis of portions of the Code. The results will be reported to CDBG Grants Administrator and included in the CAPER.</p>
<p>7. NIMBYism</p> <p>All Actions are On-going.</p>	<ol style="list-style-type: none"> 1. The City will "educate the public about the value of affordable housing and higher density development". 2. The City will implement the portion of the Affordable Housing Plan that addresses the land use hearing and review process.

COUNCIL AGENDA MEMO – August 31, 2010	
DEPARTMENT:	Economic Development
AGENDA ITEM:	ECONOMIC DEVELOPMENT AGREEMENT WITH MOUNTAIN BIKE AMERICA dba EPIC RIDES

Approved By:		Date:
Department Head: Jane Bristol <i>JB</i>		08/23/10
Finance Director:		
City Manager: Steve Norwood <i>SNorwood</i>		08/24/10

BACKGROUND

Todd Sadow and his company, Mountain Bike America dba Epic Rides based in Tucson, AZ, have successfully conducted the Whiskey Off-Road Mountain Bike Event in Prescott for seven years. In 2010, over 1,100 bicyclists participated in the Whiskey Off-Road Bike Event, which has helped put Prescott on the map for mountain bike events.

2011 BIKE EVENT

Mr. Sadow has steadily improved the quality of the event and plans to expand it to 3 days of nonstop action in 2011. As indicated in a recent council presentation, Epic Rides will offer a cash purse that will attract the top professional mountain bike riders to Prescott for a minimum of 3 days from April 29 to May 1, 2011. All events will be centered in Downtown Prescott, utilizing lodging and restaurant services and offering unique shopping opportunities to participants, their families, and spectators. April is considered to be "shoulder season" for the local tourism industry.

The event is expected to offer the largest cash purse in history with equal payouts for male and female contestants, which will attract national and international media to Prescott. A total of 1,400 participants are expected to be in attendance for this event. Industry-related vendors will also be attracted to the event to market their products.

AGREEMENT

In order to solidify the relationship between the City of Prescott and Epic Rides, the attached agreement details the responsibilities of the parties involved. The 3-day event is more expensive and complex; therefore, the City's participation is higher than in years past.

Epic Rides would receive \$20,000 to offset expenses associated with the production and marketing of the event. In addition, City equipment and services would be provided up to an additional \$10,000. Epic Rides guarantees the cash purse payout in Exhibit B, will acknowledge the City as a major sponsor, and expects a minimum 1,400 participants. They will survey their participants and report the economic impact of this event within 60 days.

Agenda Item: Agreement with Epic Rides

COUNCIL ACTION

Approve the agreement with Mountain Bike America, dba Epic Rides, in an amount not to exceed \$30,000 cash and in-kind services.

AGREEMENT

2011 WHISKEY OFF-ROAD MOUNTAIN BIKE EVENT

WHEREAS the City of Prescott (hereinafter referred to as "City") is empowered to spend public monies for and in connection with economic development activities; and

WHEREAS Mountain Bike America, LLC dba Epic Rides, an Arizona Limited Liability Corporation ("Epic Rides"), will conduct the Whiskey Off-Road Mountain Bike Event April 29-May 1, 2011 to start in downtown Prescott (hereafter referred to as the "Bike Event"); and

WHEREAS the parties hereto acknowledge the importance of the Bike Event to help bring visitors and tourists to the Prescott area in general and specifically to the Prescott Downtown area, for the purpose of helping in the retention of jobs and improve or enhance the economic welfare of the inhabitants of the City; and

WHEREAS the parties wish to enter into an Agreement to allow for the partial funding of the Bike Event by the City, in order to help expand Epic Rides' ability to increase the number of visitors and tourists.

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. The City will pay to Epic Rides \$20,000 to offset expenses associated with the production of the event to be held around the Courthouse Plaza from Friday, April 29 to Sunday May 1. A partial payment of \$10,000 will be made by September 30, 2010, with the balance due to Epic Rides by April 1, 2011.

2. The City shall provide certain equipment and services to Epic Rides for this event as follows:

a. The City-owned band shell for use during the Bike Event, including delivery, set-up and removal. The City will deliver band shell to Goodwin St. between Montezuma St. and Cortez St. by 8:00 a.m. Friday, April 29, 2011.

b. Actual costs for required police presence for security and traffic control, which includes the closures of the roads for the time periods proposed on Exhibit A; trash collection; and barricades required for the Bike Event. The City of Prescott Police Department will determine the level of support necessary to protect the public's and cyclists' safety and welfare.

c. In no event shall costs incurred by the city in Paragraph 2 exceed \$10,000. Epic Rides will pay for additional costs above \$10,000 upon receipt of an invoice and reconciliation detailing the amount due, if any, to the City of Prescott.

3. Epic Rides shall present a report to the City Manager within 60 days after the Bike Event, detailing the estimated economic impact of the Bike Event to the City.

4. In consideration of the monies and services to be received by Epic Rides pursuant to this Agreement, Epic Rides hereby agrees to the following:

- a. The Bike Event will be held April 29 to May 1, 2011 to be started within the downtown Prescott area, and include a community concert.
- b. With ideal circumstances, Epic Rides estimates 1,400 participants in the 2011 Bike Event.
- c. Epic Rides guarantees the cash purse payout as specified in Exhibit B attached.
- d. Epic Rides will acknowledge the City as a major sponsor of the 2011 Whiskey Off-Road Bike Event in all printed and computer-generated matter created after this agreement is executed.
- e. Epic Rides warrants and agrees that the City is not required to sponsor future Bike Events.

5. Pursuant to A.R.S. Section 38-511, the City may cancel this Agreement without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the Agreement on behalf of the City is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement. In the foregoing event, the City further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiation, securing, drafting or creating the Agreement on behalf of the City from any other party to the Agreement, arising as a result of the Agreement.

6. It is expressly agreed and understood by and between the parties that Epic Rides is an independent contractor, and as such Epic Rides shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in this Agreement. As an independent contractor, Epic Rides further acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement, or as a result of its employment of a business manager. As an independent contractor, Epic Rides further agrees that it will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. The parties expressly acknowledge that provisions of this Paragraph shall also be binding upon Epic Rides employees.

7. Epic Rides, with regard to the work performed by it after award and during its performance of the Agreement, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of contractors, subcontractors, including procurement of materials and leases of equipment. Epic Rides will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 99-4.

8. Each party shall indemnify, defend, save and hold harmless the other party, its agents, representatives, contractors, subcontractors, officials, and employees (hereinafter referred to as 'Indemnatee') from and against any and all claims, actions liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and the cost of appellate proceedings) (hereinafter referred to as 'Claims') for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property causes, or alleged to be caused, in whole or in part, by the gross negligence or willful misconduct of the other party, its agents, representatives, contractors, subcontractors, officials, and employees, in connection with the carrying out their respective obligations under this Agreement. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for claims arising solely from the gross negligence or willful misconduct of the other party, be indemnified by the Indemnatee from and against any and all claims.

EVENT INSURANCE REQUIREMENTS:

Commercial General Liability – Occurrence Form –
Policy shall include bodily injury, property damage, and broad form contractual liability.

General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$2,000,000
• Personal and Advertising Injury	\$1,000,000
• Each Occurrence	\$1,000,000
• Automobile Liability (including non-owned)	\$1,000,000

The policies shall include, or be endorsed to include, the following provisions:

1. The City of Prescott to be named as additional insured to the full limits of liability purchased by Epic Rides, even if those limits of liability are in excess of those required by this Agreement.
2. Epic Ride's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

VERIFICATION OF COVERAGE: Epic Rides shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

9. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

10. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Agreement, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

11. If the performance of either party of any of its obligations under this Agreement is prevented, restricted, interfered with or delayed by reason of any cause beyond the reasonable control of the party obligated to perform (a "Force Majeure"), then the party so affected shall, upon giving written notice to the other party, be excused from such performance to the extent such prevention, restriction, interference or delay, provided that the affected party shall use its best efforts to avoid or remove such causes of nonperformance and shall continue performance with its best efforts whenever such causes are removed. The parties understand that, if a Force Majeure results in the cancellation of the Bike Event, Epic Rides shall have no obligation under this Agreement to the City by reason of such cancellation. Force Majeure shall include, but shall not be limited to, inclement weather which might reasonably impact the safety of Bike Event participants, whether through direct contact, or through such weather's affect on the Bike Event, or the roads and trails utilized for the Bike Event, in Epic Rides' reasonable determination; unsafely high or low temperatures, in Epic Rides reasonable determination; or the cancellation or postponement of the event by the City, Forest Service or County of Yavapai.

DATED this ____ day of _____, 2010.

MOUNTAIN BIKE AMERICA, LLC.

By: _____
Name: TODD SADOW
Title: President

DATED this ____ day of _____, 2010.

By: _____
STEVE NORWOOD, City Manager

APPROVED AS TO FORM:

GARY D. KIDD, City Attorney

Exhibit A

Proposed Road Closures & Traffic Control

Road	Time Period
Goodwin St. between Cortez St. and Montezuma St.	Friday 6:00 a.m. – Sunday 5:00 p.m.
Montezuma St. between Gurley St. and Goodwin St.	Friday 6:00 a.m. – Sunday 5:00 p.m.
Goodwin St. West of Montezuma to Granite St.	Friday 3:00 p.m. – Friday 7:30 p.m. Saturday 7:00 a.m. – Saturday 5:00 p.m. Sunday 9:00 a.m. – Sunday 10:30 a.m.
Coned lane beginning at Gail Gardner Way to Park Ave. Right on Park Ave. to Glenwood Ave. Left on Glenwood Ave. to Goodwin St. Right on Goodwin St. Coned lane terminates at Montezuma St.	Friday 4:00 p.m. – Friday 7:30 p.m. Saturday 10:00 a.m. – Saturday 4:00 p.m. Sunday 7:00 a.m. – Sunday 2:00 p.m.
Traffic control at the following intersections: Montezuma and Goodwin St., Glenwood and Park, Park and Highland, Highland and Copper Basin	Friday 3:00 p.m. – 4:00 p.m. Saturday 7:00 a.m. – 10:00 a.m. Sunday 9:00 a.m. – 10:30 a.m.
Traffic control at the following intersections: Park Ave. and Gurley St., Glenwood St. and Park Ave., Montezuma and Goodwin St.	Friday 4:00 p.m. – 7:30 p.m. Saturday 9:30 a.m. – 4:00 p.m. Sunday 7:00 a.m. – Sunday 2:00 p.m.
Friday Evening Downtown Criterium Race	Several Options Available, below is one option that appears to minimize disruption to area traffic
Right-side lane closure and traffic control: From Cortez St. and Union St. intersection. East on Union St. to Pleasant St., South on Pleasant St. to Carleton St. West on Carleton St. To Cortez St. North on Cortez St. to Cortez St. and Union St. intersection.	Friday 4:00 p.m. – 8:00 p.m.

Exhibit B

Cash Purse

Purse Payouts	Male	Female
1st	\$4,000	\$4,000
2nd	\$2,250	\$2,250
3rd	\$1,000	\$1,000
4th	\$750	\$750
5th	\$500	\$500
6th	\$400	\$400
7th	\$350	\$350
8th	\$300	\$300
9th	\$250	\$250
10th	\$200	\$200
Total	\$10,000	\$10,000

Cash Payout Whiskey Off Road 2011

EXHIBIT B

	Purse Payouts	Male	Female
1st	\$4,000	\$4,000	\$4,000
2nd	\$2,250	\$2,250	\$2,250
3rd	\$1,000	\$1,000	\$1,000
4th	\$750	\$750	\$750
5th	\$500	\$500	\$500
6th	\$400	\$400	\$400
7th	\$350	\$350	\$350
8th	\$300	\$300	\$300
9th	\$250	\$250	\$250
10th	\$200	\$200	\$200
Total	\$10,000	\$10,000	\$10,000

- \$20,000 cash purse will be the largest one day-two category cash purse in American mountain biking

- First major purse in mountain biking to split 50/50 male/female

- Next closest documented weekend purse in America is \$8,350 (\$6,350 male/\$2,000 female)



mountain bike
america

COUNCIL AGENDA MEMO – August 31, 2010
DEPARTMENT: Community Development
AGENDA ITEM: Special Use Permit for the 'Scooter and Auto Source' allowing for the sale of scooters and autos. Located near the northeast corner of Miller Valley Road and Brannen Avenue. APN: 113-07-012 Zoning: BG Owner: The Heuer Orville Fd Helen B. Trust. Applicant/Agent: Mark Tetreau, SUP10-001.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood <i>leigh blount for</i>	<i>8-24-10</i>

Request

To allow for scooter and limited auto sales in a BG zoning district at 613 Miller Valley Road. The existing structure includes approximately 11,000 square feet of area. The business is proposed to operate in conjunction with Able Saw, which is also owned and operated by the applicant in the same building. Currently, the applicant conducts auto sales across the street in a BR district. The applicant is downsizing due to the economy.

The Land Development Code states that auto sales shall require an approved SUP in a BG zoning district. Scooters, motorcycles and autos sales are not distinguished from one another in the Land Development Code.

The applicant conducts scooter sales, primarily through the internet. A store front and sales area for 2 autos are required to maintain the applicant's State Auto Sales License. Currently, financing and loan servicing also take place at this location. Although only 2 parking spaces are needed to maintain the license, the applicant is requesting that 4 spaces be used for both scooter and auto display. The applicant has been in the auto sales business for over 30 years, and wishes to continue specialty auto sales in a manner similar to the American Classic business, which operates nearby.

Parking Requirements

The parking area is adequate as required by the Land Development Code. There are 33 parking spaces serving this property including a parking area toward the rear of the building (along Division Street). As additional uses in the center are proposed in the future, the adequacy of the parking area shall be determined by staff on a case by case basis.

The applicant has offered to designate specific spaces for vehicle display, which has been added as a condition of approval by the P&Z Commission. The preferred display area is located on the Southwest portion of the parking lot nearest to Miller Valley Road.

Typically, the parking area for an auto and scooter sales business is required to be setback at least 10' from the right-of-way and 5' from all other property lines (LDC 2.4.10). Given that this property has an existing parking area, a wavier to the parking lot setback requirements is requested.

Landscape Requirements

LDC Section 6.5.6 includes provisions for landscaping along parking lot perimeters. The typical requirement is for landscape strips 10 feet wide along the street and 5 feet wide along other property lines. The building and grounds are existing with little opportunity for additional landscaping. Also, the applicant is renting and is therefore requesting a wavier.

Historic Preservation

This property is not listed in the National Register of Historic Places nor is it in any Historic District.

Floodplain

This site is not located within the FEMA designated Granite Creek Floodplain.

Agency and Public Comments

The application has been reviewed by City departments with no objections noted. No public comment had been received at the time of this writing.

Planning Commission Review and Recommendation:

The Commission reviewed the proposed Plan at its meetings on July 29 and August 12. The Commission expressed concern regarding the overall parking for the center. Discussion regarding sales area sign postings and U-haul rentals led to the addition of 2 additional conditions of approval. The discussion concluded with a unanimous vote (5 to 0 with Menser and Gardner absent) to forward a positive recommendation to Council, with the conditions as suggested below.

Attachments:

Vicinity & Zoning Map
Narrative Letter

Recommended Action: MOVE to approve SUP10-001 subject to the following stipulations:

1. The required setback of 10' from all right-of-ways and 5' from all other property lines for parking areas shall be waived.
2. Provisions for landscaping along the parking lot perimeter for landscape strips 10 feet wide along the street and 5 feet wide along other property lines shall be waived.
3. Up to 4 parking spaces may be used to display scooters and/or autos. The display area shall be located on the Southwest portion of the parking lot near to Miller Valley Road and shall be clearly signed as reserved parking for the display of vehicles.
4. U-haul display and similar rentals are prohibited.

SCOOTER & AUTO SOURCE
580 Miller Valley Rd.
Prescott, AZ 86301
928-443-5510
FAX 928-778-0102

June 22, 2010

City of Prescott
Community Development Dept.
Planning & Zoning Division
201 South Cortez Street
Prescott, Az 86303

Ryan Smith:

My wife, Jill and I have been in the used auto and scooter business in Prescott, collecting sales tax and making our living since 1979.

With the present economy, we have chosen to sell autos and scooters on a smaller scale, being internet and our location at 613 Miller Valley Rd. This is the front of 618 Division, which is also known as Able Saw, a company that has been in business 20+years at the same location. My wife and I also own Able Saw. This move will allow us to discontinue paying rent at the 580 Miller Valley Rd location.

The State of Az. Motor Vehicle Department of Transportation has issued our business a state dealer license for the 613 Miller Valley Rd suite 613 location. Their requirement is parking for 2 vehicles.

We feel the conditional use permit would continue to generate tax revenue for the city of Prescott and not change the impact issue, as we have been in the same business at the 580 Miller Valley Location for nine years. Which is just across the street.

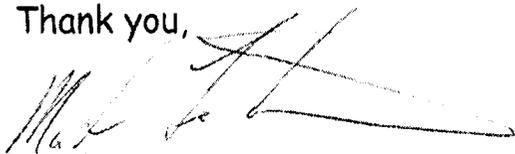
We would be displaying vehicles similar to American classic at the 625 Miller Valley Rd. location.

A possible issue is the mobility store that is located at 609 Miller Valley Rd. It was previously located at 619 Pine Plaza, which is the Plaza where #613 is located. Their customers are accustomed to parking in Pine Plaza, so the mobility store may wish we were not using the parking. Their customer parking is located behind their store on Division Street.

Our hours of operation are 10:00am to 4:00pm, Monday thru Saturdays. We do not create noise and do not have hazardous materials or waste.

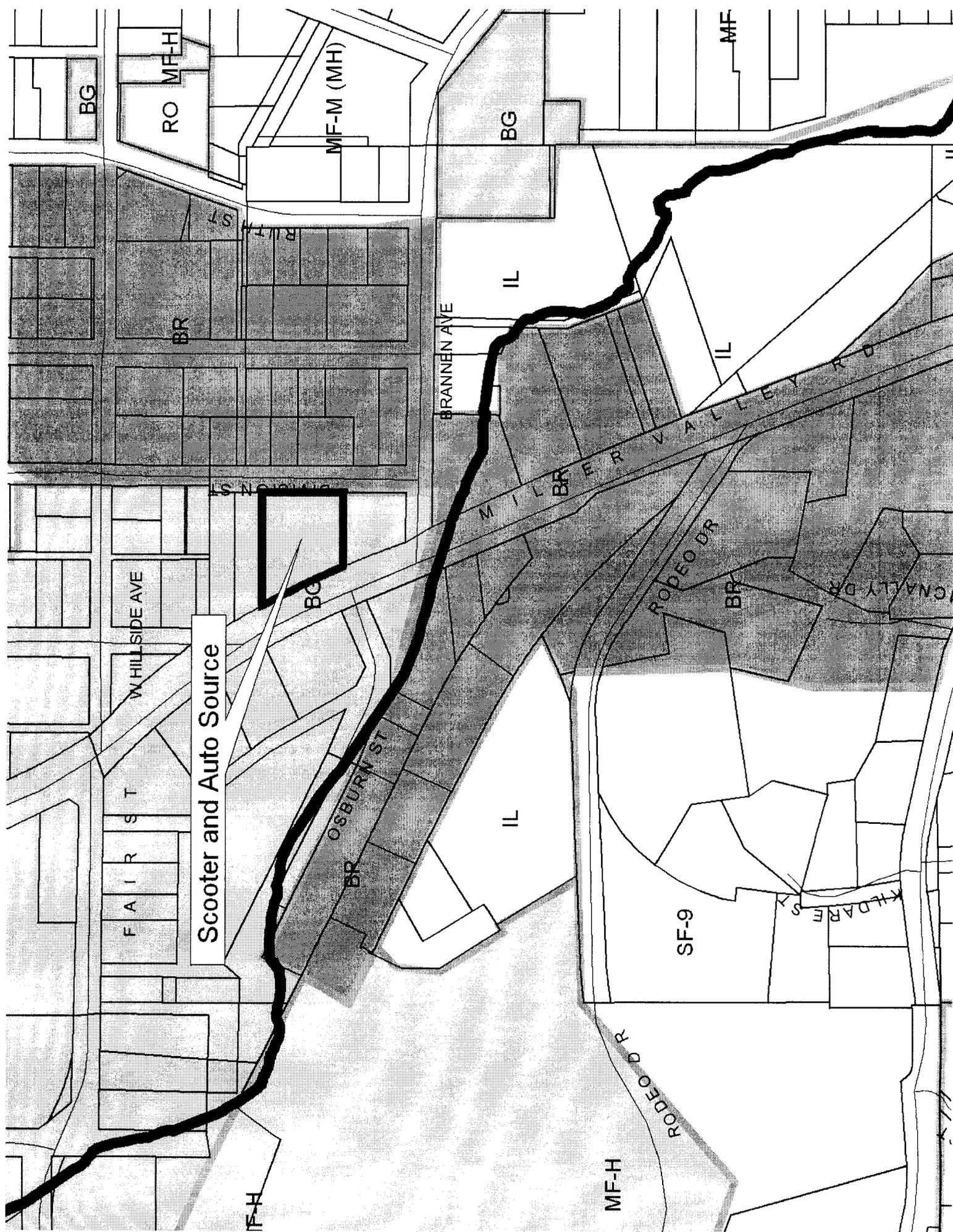
We wish to continue business in Prescott at 613 Miller Valley Rd., Prescott, AZ.

Thank you,

A handwritten signature in black ink, appearing to read 'Mark Tetreau', written over a horizontal line.

Mark Tetreau
Scooter and Auto Source
Owner

Scooter and Auto Source



COUNCIL AGENDA MEMO – August 31, 2010	
DEPARTMENT:	City Manager
AGENDA ITEM:	Approval of Ordinance No.4759-1110 amending the Water Conservation Incentive Program

Approved By:	Date:
Regional Programs Director: Craig McConnell	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>Craig McConnell for</i>	8-24-10

Background

Created in 2006, the Water Conservation Incentive Program is one component of an overall strategy to promote prudent use of this important resource through educational programs, construction and development codes, a tiered rate structure reinforcing conservation, and appropriate landscaping and seasonal restrictions on outside watering. These conservation efforts have proven to be effective, as evidenced by reductions in per capita and peak water usage.

The Water Conservation Incentives Program budget is \$50,000 this fiscal year (FY 11) in comparison to \$85,000 last year (FY 10). Reflecting the present funding level and review of program objectives and accomplishments, the Water Conservation Coordinator, Shaun Rydell, has recommended certain changes to the incentives. These are identified in the "Proposed" column of the attached summary, which can be compared with the incentives currently in the City Code (the "Current Code" column).

At their meeting of July 27, 2010, the Council Water Issues Committee reviewed the proposed program changes and recommended transmittal of the attached draft ordinance to the full Council for consideration.

Budget

Funding in the amount of \$50,000 has been budgeted and is available for the Water Conservation Incentive Program in the current fiscal year (FY 11).

- Attachments**
- (1) Comparison of current and proposed incentives
 - (2) Ordinance No. 4759-1110 amending the City of Prescott Water Conservation Incentive Program

Recommended Action: MOVE to adopt Ordinance No. 4759-1110.

INCENTIVE AWARDS LIST

Water Efficiency Improvement Incentive¹	Incentive Award Amount	
	Proposed	Current Code
Landscape conversion to automatic drip system ²	\$75.00	\$150.00
Landscape irrigation audit by Certified Auditor ³	\$75.00	\$100.00
Rainwater cistern ⁴	\$ 0.10 per gal of storage \$300.00 max award	\$0.10 per gal of storage \$500.00 max award
Turf removal on-site and in adjacent public right-of-way ⁵	\$0.25 per SF \$400 max award per residential acct \$800.00 max award per nonresidential acct	\$0.50 per SF \$800.00 max award per residential acct \$2000.00 max award per nonresidential acct
High efficiency toilets (replacement units 1.6 gallons or less per flush; 2 units maximum per residential account)	\$50.00	\$100 - 150 according to efficiency
Commercial urinals (replacement units 1.0 gallons or less per flush, or alternative flushless design)	\$50.00	\$100 - 125 according to type
Rotator spray head replacement (minimum of 12 heads replaced)	\$2.00 per spray head \$40.00 max award	No incentive
Leak repairs (one time benefit per property)	\$5.00 per repaired leak \$25.00 max award	\$20.00 max per award; \$50.00 max per property
Showerheads (not to exceed 2.4 gallons/minute)	\$10.00	\$10.00
Other qualifying low flow-low tech Water Smart device	\$10.00	\$10.00

Turf existing on/before January 1, 2007, eligible for removal incentive.

Fixtures installed prior to January 1, 1995, eligible for retrofit incentive.

Fixtures installed prior to January 1, 1995, eligible for retrofit incentive.

**SUMMARY
WATER CONSERVATION
INCENTIVES**

Total incentives granted for a property limited to \$2,500.00.

ORDINANCE NO. 4759-1110

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE III, CHAPTER 10, SECTION 8, *WATER CONSERVATION CODE: INCENTIVE PROGRAM*, OF THE PRESCOTT CITY CODE

RECITALS:

WHEREAS, the Mayor of the City of Prescott has appointed a Water Issues Committee to make recommendations to the City Council on various water management matters; and

WHEREAS, the Water Issues Committee has recommended that the City Council revise its adopted incentive program, as more particularly set forth herein.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT Title III, Chapter 10, Section 3, *Water Conservation Code: Incentive Program*, of the Prescott City Code is hereby amended to read as follows:

3-10-8: INCENTIVE PROGRAM

- (A) Purpose: to encourage residents and businesses to conserve water by providing financial incentives (rebates) for retrofitting existing, less efficient water-use devices, and replacing higher water-use landscaping. This section applies to the purchase and installation on or after the effective date hereof, of devices to retrofit plumbing fixtures installed prior to January 1, 1995, to the removal of high water consuming landscaping which existed on or before January 1, 2007, and to irrigation audit services conducted and rainwater cisterns purchased and installed within those areas of the City served water by the City.
- (B) All incentive awards require and are subject to the submittal of complete applications and determination of eligibility and qualifications by the City. Applications will be accepted only from the current property owner(s) of record.
- (C) The incentive program is provided on a first come, first served basis, subject to the availability of budgeted funding. Applicants are responsible for confirming the availability of funding for incentive awards prior to submittal of their applications, which information can be obtained by contacting the Water Conservation Coordinator or other person designated by the City of Prescott Public Works Director. No applicant shall be entitled to more than one-half (1/2) of the monies

remaining available for this program at any time during a fiscal year. Total incentives granted for a property shall be limited to \$2,500.00.

- (D) Incentive awards will be credited on water bills for the applicable properties within three billing cycles after approval.
- (E) The Water Conservation Coordinator and Water Issues Committee shall from time to time review the incentive program, and may recommend changes to the City Council.
- (F) Incentives shall be administered by the Water Conservation Coordinator or other person designated by the City Manager, in accordance with the following Incentive Awards List and qualifying criteria:

INCENTIVE AWARDS LIST

Water Efficiency Improvement Incentive¹	Incentive Award Amount
Landscape conversion to automatic drip system²	\$75.00
Landscape irrigation audit by Certified Auditor³	\$75.00
Rainwater cistern⁴	\$ 0.10 per gallon of storage \$300.00 maximum award
Turf removal on-site and in adjacent public right-of-way⁵	\$0.25 per square foot \$400.00 maximum award per residential account \$800.00 maximum award per non-residential account
High efficiency toilets (replacement units 1.6 gallons or less per flush; 2 units maximum per residential account)	\$50.00
Commercial urinals (replacement units 1.0 gallons or less per flush, or alternative flushless design)	\$50.00
Rotator spray head replacement (minimum of 12 heads replaced)	\$2.00 per spray head \$40.00 maximum award
Leak repairs (one time benefit per property)	\$5.00 per repaired leak \$25.00 maximum award
Showerheads (not to exceed 2.4 gallons/minute)	\$10.00
Other qualifying low flow-low tech Water Smart device	\$10.00

¹ Guideline for Incentive Awards; City Permit Requirements

Each item is a one-time award for the property, fixture, or equipment as indicated, subject to City review, approval, and issuance of permits where required.

² Landscape Conversion to Automatic Drip Systems

Eligibility for incentive award requires that the completed system include all three of the following components: an automatic timer, approved backflow prevention device, and a drip irrigation system.

³ Landscape Irrigation Audit by Certified Auditor

Requires applicant contact the conservation office for guidelines prior to irrigation audit being conducted. Incentive award application must include a completed and certified landscape irrigation worksheet reviewed and signed by the certified auditor and applicant, and a copy of the paid invoice signed and dated by an approved and certified landscape irrigation auditor.

⁴ Rainwater Cistern

Requires the installation of a minimum 500-gallon capacity rainwater catchment tank or engineered cistern. Rainwater storage systems may not be interconnected with the City potable water system. Applicants must contact the conservation office for guidelines prior to installation of the system.

⁵ Turf Removal

Requires conversion from irrigated turf grass to water saving landscaping, and if irrigated, installation of an automatic water timer, backflow prevention device and drip or similar system. Applicants must contact conservation office for guidelines prior to removal of turf. Minimum turf removal areas are 200 square feet for residential and 1000 square feet for non-residential.

- (G) Incentive awards granted pursuant to this Section shall not exceed the actual cost incurred by the applicant for the water efficiency improvements.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona on this 31st day of August, 2010.

MARLIN D. KUYKENDALL Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY KIDD, City Attorney

COUNCIL AGENDA MEMO – 08/31/2010
DEPARTMENT: POLICE
AGENDA ITEM: Adoption of Resolution No. 4045-1115 and Ordinance No. 4760-1111 providing for permitting of identified alarm systems and encouraging improved reliability of these systems through assessments for recurring false alarms requiring police response

Approved By:	Date:
Department Head: Michael Kappel	08/25/2010
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>Craig H. Blount</i>	8-25-10

Summary:

The attached ordinance will require all users of identified alarm systems to obtain an alarm user’s permit from the City of Prescott. Moreover, this ordinance will identify specific responsibilities of both alarm users and alarm businesses during the installation, maintenance, and operation of the alarm systems.

Background:

During a prior workshop, Council supported the establishment of an alarm ordinance as a means of identifying residential and business alarm system users within the City, and to reduce the high level of false alarms occurring annually. Such action is necessary to prevent substantial Police Department resources from being diverted to false alarms, thus reducing available public safety personnel needed to maximize protection of the peace, safety and welfare of the public.

In addition, this new ordinance will reimburse the City of Prescott for public costs incurred in Police Department responses to false alarms. Assessments for false alarms are expected to result in enhancement of the dependability of installed alarm systems by encouraging owners to become more proactive in their use, training, and maintenance.

Due to the length of the City Code revisions, the new section of the Code will be adopted as a public record by Resolution No. 4045-1115 and then the public record will be adopted by reference by Ordinance No. 4760-1111.

Financial Impact:

The Police Department will hire a part-time Alarm Coordinator to administer the provisions of this ordinance.

Recommended Action: (1) MOVE to adopt Resolution No. 4045-1115; and (2) MOVE to adopt Ordinance No. 4760-1111.

RESOLUTION NO. 4045-1115

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED "CHAPTER 5-6, ALARM SYSTEMS, OF THE PRESCOTT CITY CODE"

RECITALS:

WHEREAS, that certain document entitled the "*Chapter 5-6, Alarm Systems, of the Prescott City Code*," three copies of which are on file in the office of the City Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the city clerk.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT certain document entitled "*Chapter 5-6, Alarm Systems, of the Prescott City Code*" is hereby declared to be a public record.

Section 2. THAT the City Clerk is hereby directed to maintain three (3) copies of the above referenced public documents on file at all times for inspection by the public.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT 'A'**CHAPTER 5-6: ALARM SYSTEMS****SECTIONS:**

- 5-6-1: PURPOSE:**
- 5-6-2: DEFINITIONS:**
- 5-6-3: EXEMPTIONS:**
- 5-6-4: LIABILITY:**
- 5-6-5: ALARM BUSINESS EQUIPMENT STANDARDS:**
- 5-6-6: ALARM BUSINESS RESPONSIBILITIES:**
- 5-6-7: ALARM USER PERMITS REQUIRED:**
- 5-6-8: ALARM USER RESPONSIBILITIES:**
- 5-6-9: RESPONSIBLE PARTIES:**
- 5-6-10: FALSE ALARMS:**
- 5-6-11: AUDIBLE ALARMS:**
- 5-6-12: PROHIBITED DEVICES:**
- 5-6-13: PAYMENT OF FEES AND ASSESSMENT:**
- 5-6-14: APPEAL PROCEDURE:**
- 5-6-15: CONFIDENTIALITY:**
- 5-6-16: INTENTIONAL MISUSE:**
- 5-6-17: ASSESSMENTS AND PENALTIES:**
- 5-6-18: SEVERABILITY:**

5-6-1: PURPOSE:

This Chapter is intended to regulate the activities and responsibilities of those persons who purchase, own, lease or rent alarm systems or devices and those persons who own or conduct the business of selling, installing, leasing, renting, maintaining, servicing or monitoring alarm systems, devices or services. It is further intended to encourage the improvement in reliability of these systems, devices and services and to insure that public safety personnel will not be unduly endangered, diverted from responding to actual emergency activity or other required duties as a result of responding to false alarms. This ordinance specifically encompasses all alarm systems monitoring a structure, including but not limited to burglar alarms and robbery and panic alarms, both audible and inaudible.

5-6-2: DEFINITIONS:

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

“Acts of nature.” An unusual, extraordinary, sudden and unexpected manifestation of the forces of nature, which cannot be prevented by reasonable human care, skill or foresight.

“Alarm” or “alarm system.” Any mechanical, electrical or other device or assembly of equipment designed or arranged to signal the occurrence of an illegal entry, criminal activity or other activity requiring urgent attention and to which Police Department personnel are needed or expected to respond.

“Alarm agent.” Any person who is employed by an alarm business either directly or indirectly, whose duties include any of the following: selling, leasing, installing, maintaining, servicing, altering, replacing, moving, repairing or monitoring any alarm or alarm system. Any person whose duties consist solely of resetting an alarm following activation shall not be deemed to be an alarm agent.

“Alarm business.” Any person, partnership, firm, corporation, or other entity conducting or engaging in any of the following businesses: selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing and/or monitoring, an alarm located in or on any building, structure, place or premises.

“Alarm coordinator” or “coordinator.” Police Department employee designated by the Chief of Police to represent the City of Prescott in administration of this chapter.

“Alarm monitor.” Any person or business that provides among his or its services the watching or monitoring of alarms, relaying of alarm information to City of Prescott Police Department and/or contacting the alarm user, his designated agents or other responsible person.

“Alarm user.” Any person, firm, partnership or corporation which leases, rents, utilizes or purchases any monitored alarm system, device or service from an alarm business, or otherwise arranges for the installation or service of an alarm system, or who is responsible for the premises where an alarm system is located and is required to be a permit holder, except as provided for herein.

“Audible alarm.” A device which, when activated, generates an audible sound on or in the premises.

“Automatic dialer.” A device which is interconnected to a telephone line, cellular telephone service or radio link and is programmed to select a predetermined telephone number and transmit an emergency message indicating a need for emergency response either by voice methods or coded signals or by maintaining an open line with emergency services.

“Burglar Alarm.” Any alarm system, which is activated automatically upon entry into buildings or onto premises, and is designed to alert Police Department personnel of unauthorized entry.

“City.” The City of Prescott, Arizona, or it’s authorized employees or agents.

“Common cause.” A common technical difficulty or malfunction which causes an alarm system to generate a series of false alarms. Such series of false alarms shall be counted as one false alarm only if the false alarms have occurred within a forty-eight (48) hour period, and the responsible alarm business has documented to the Chief of Police the action taken to rectify the cause, and a thirty (30) day period expires with the alarm system generating no additional false alarms from the documented cause.

“False alarm.” Any activation of an alarm eliciting a response by Police Department personnel when a situation requiring a response does not in fact exist. It does not include activation for testing purposes when the appropriate public safety personnel have been given advance notice of such testing. It also does not include activation caused by Police Department personnel. A false alarm may be caused by any one or more of the following:

- ▶ Mechanical failure or malfunction.
- ▶ Improper installation or maintenance.
- ▶ Accidental or negligent acts of an alarm user or of a person under his control or direction.
- ▶ Intentional activation of an alarm when no criminal or other emergency condition exists. (Routine testing and installation conducted by the operator or technician that may include audible sounding of an alerting device shall not be construed to be a false alarm under this Chapter so long as advance notice is given to the Police Department and it does not sound for longer than five minutes during such test.)
- ▶ Any other cause not related to an actual or attempted criminal act; provided, however, that any alarm caused by a severe act of Nature, or by malicious acts of persons not under the direction or control of the alarm user shall not be considered a false alarm.

“Monitored alarm.” An alarm system that transmits signals to an alarm business or monitoring agency for the purpose of alerting Police Department personnel.

“Non-monitored alarm system.” Those alarms that are not monitored by a monitoring agency and depend on local audible devices to summon help.

“Primary alarm user.” The person responsible for the operation of the alarm system and training of any other alarm users on the premises on an alarmed site.

“Proprietary alarm system.” An alarm system for which response is provided solely by the user or his own security force, and which does not emit an outside audible alarm.

“Robbery or panic alarm.” Any alarm system which is designed for the detection of a robbery or the commission of an unlawful act within the premises protected by an alarm

system, and which may be intentionally activated by a person, generates an inaudible signal to the monitoring station and may or may not generate an audible sound at the premises, and is designed to alert or cause to be alerted Police Department personnel to an emergency situation occurring to or against an individual or premises.

5-6-3: EXEMPTIONS:

The provisions of this Chapter are not applicable to:

- A. Fire alarm systems.
- B. Audible alarms affixed to a motor vehicle, watercraft, or aircraft.
- C. Proprietary alarm systems.
- D. Independent, stand-alone alarm systems installed or placed by or at the direction of the City of Prescott Police Department for law enforcement purposes.
- E. Governmental agencies.
- F. Alarm or alarm signals caused by the testing, repair or malfunction of telephone equipment lines or electrical utility equipment or lines that are not reasonably subjected to control by the alarm user.

5-6-4: LIABILITY:

- A. A person or entity that violates any provision of this Chapter shall be liable to the City for all losses and costs incurred by the City, and/or recoveries from or claims against the City for any damages to person or property which occur as a result of a violation of this Chapter.
- B. By adopting the provisions as set forth in this Chapter, the City of Prescott, its officers, employees and agents shall not assume any greater duty or obligation to an alarm user than that which is owed to the public in general by the City, its officers, employees and agents.

5-6-5: ALARM BUSINESS EQUIPMENT STANDARDS:

- A. The following equipment standards, technical standards and standards of operation shall be followed by the alarm business or any individual installing or using an alarm system.
 - 1. All alarm systems shall be installed using good workmanship and shall be designed to reduce false alarms.

2. All alarm system equipment, which are subject to this chapter, must be UL listed, FM approved or equivalent, and used only for the purpose intended by the manufacturer, installed per manufacturer specifications.
3. All components of alarm systems shall be installed by qualified and experienced service personnel. Examples of qualified personnel shall include individuals who are:
 - (a) Factory trained and certified; or
 - (b) Certified by the National Institute for Certification in Engineering Technologies; or
 - (c) International Municipal Signal Association alarm certified; or
 - (d) Certified by a state or local authority; or
 - (e) Personnel trained and employed by an organization listed by a national testing laboratory for the servicing of alarm systems; or
 - (f) Personnel holding the appropriate Arizona State Contractor's license.
 - (g) Personnel employed by an alarm business which business meets the criteria under Subsections (a) through (f) above, and acting under the direction or control of a qualified person as defined in those subsections.
4. Alarm systems shall be designed to alert the monitoring company and/or user of possible system problems.
5. Alarm systems shall be provided with at least two independent and reliable power supplies, one primary and one secondary (standby), each of which shall be of adequate capacity for the application.
6. No alarm business shall place in service or monitor an alarm system that is defective or contains defective components.
 - (a) The alarm business is responsible for inspecting all burglar and panic alarm systems and for determining that the system is operating as designed and will not be a source of additional false alarms caused by system or component failure prior to placing the system in service or commencing monitoring services.

5-6-6: ALARM BUSINESS RESPONSIBILITIES:

- A. Businesses that only sell alarm systems and devices but do not operate, install, maintain, service or monitor them are not subject to the provisions of this section; provided, however, that the remaining portions of this Chapter shall apply where applicable.
- B. The following are responsibilities of any alarm business operating within the City limits.
1. Alarm businesses conducting alarm business in this jurisdiction shall maintain the appropriate Arizona State Contractor's License(s).
 2. An alarm business that installs and/or maintains an alarm or alarm system shall ensure the alarm or alarm system is in good working order and take reasonable measures to prevent the occurrence of false alarms.
 3. An alarm business that installs an alarm system shall provide the primary alarm user with complete instruction, including specific written operating instructions that provide reasonable guidelines to aid the user in correctly using the alarm system installed by the alarm business. Such instruction will specifically include all necessary instructions in turning the alarm on and off and in avoiding false alarms. Documentation of such training shall be retained by the alarm business as long as the business services, maintains or monitors the alarm system for the primary alarm user, and for one year thereafter.
 4. Prior to installation of a new alarm system, the alarm business shall notify the primary alarm user of:
 - (a) The need for an alarm permit for any system, monitored or non-monitored. The alarm business shall provide the alarm user with a permit application for the City of Prescott.
 - (b) A copy of this Alarm Ordinance.
 - (c) Documentation that the permit and ordinance was distributed shall be retained by the alarm business as long as the business services, maintains or monitors the alarm system for the primary alarm user, and for one year thereafter.
 5. At the completion of the installation of an alarm system, the alarm business shall inspect and test all equipment and features and take or cause to be taken corrective action necessary to prevent the occurrence of false alarms. The results of such tests and corrective actions shall be documented and maintained by the alarm business as long as services or

monitoring is provided to users of the alarm system, and for one year thereafter.

6. An alarm business which leases, monitors, services, or provides maintenance and/or service to an alarm system with an audible sounding device shall:
 - (a) Maintain records of the location of these alarm systems, devices or services and the name and telephone number of the person and alternate to be notified whenever the alarm is activated, and to readily report such information and changes to the Police Department upon request.
 - (b) Deactivate or cause to be deactivated the audible alarm within fifteen (15) minutes of the notification of its activation in the event a responsible party listed on the alarm user permit cannot be contacted or does not respond.
7. An alarm business which leases, monitors, services, or provides maintenance and/or service to an alarm system with an inaudible device shall:
 - (a) Establish a central receiving station in order to monitor these alarm systems.
 - (b) Organize its central receiving station in order to be able to readily and positively identify the type of alarm, i.e. burglary, robbery or panic and the location of the alarm, if there is more than one system.
 - (c) Maintain records as to each of these alarm systems, devices or services, which shall include the name of the owner or occupant of the premises, the name and telephone number of the subscriber, a primary person and at least one alternate responsible for responding to the premises when the alarm is activated, and information concerning whether the alarm system includes an audible alarm.
 - (d) Arrange for the alarm subscriber, alarm agent or other responsible representative to go to the premises of an activated alarm system within 30 minutes of activation in order to be available to assist the police in determining the reason for activation and securing the premises when requested by the Police Department.
8. Prior to the notification of the Police Department of the need for its response in reference to a burglar alarm, the alarm business shall attempt

to contact a responsible party at two separate phone numbers to verify the validity of the alarm.

9. Promptly notify responding Police Department personnel of an alarm cancellation.

5-6-7: ALARM USER PERMITS REQUIRED:

- A. Every alarm user shall obtain an alarm user's permit from the City of Prescott prior to activation, for each business or residence in which an alarm system is installed. All permits shall be valid for one year from the date issued. Such permit shall be obtained from the City of Prescott alarm coordinator or their alarm business for existing alarms by the effective date of this Chapter or prior to a new alarm system becoming operational which is installed subsequent to the effective date of this Chapter. A permit shall be granted upon receipt of a completed application, compliance with this Chapter, and payment to the City of Prescott of the license fee as prescribed by the City for each such permit. Permits are not transferable from one user to another user or from one address to another address. The alarm user shall be responsible to keep the City alarm coordinator advised of the user's current mailing address at all times while the permit is in effect. Prior to expiration of the user's permit, the alarm user shall also be responsible for renewing his/her alarm permit and paying the renewal license fee as determined by the City.

Permits not renewed within thirty (30) days after expiration will no longer be valid. Alarm users will again be required to make initial application to reacquire a valid permit and pay all applicable fees.

- B. For public safety considerations, permits and information contained in said permits shall be considered confidential and may only be used by the City of Prescott for City purposes.

5-6-8: ALARM USER RESPONSIBILITIES:

The following are the duties and responsibilities of all alarm users operating alarm systems in the City of Prescott:

- A. Train or cause to be trained any and all persons, who might have reason and authority to control the alarm system, in the proper operation of the system.
- B. To inform persons who are authorized to place the alarm system into operation of the provisions of this Chapter, emphasizing the importance of avoiding false alarms.
- C. The alarm user shall keep a copy of the approved permit at the premise where the alarm system is located. Said copy shall be made available upon request by

and to City representatives during normal business hours or during response to an alarm.

- D. To notify the alarm coordinator, within ten (10) days, of any changes in the information contained in the application or permit, or when the alarm user has moved from the location of the alarm system and is no longer responsible for its operation.
- E. To maintain a record of all activities and actions taken to correct or prevent false alarms for the permit.
 - 1. Non-residential alarm users shall maintain records of any alarm activities or actions for at least two years.
 - 2. Residential alarm users shall maintain records of any alarm activities or actions for at least two years.
- F. To adhere to the equipment standards as set forth in Section 5-6-5.

5-6-9: RESPONSIBLE PARTIES:

- A. Any person who operates or uses an alarm system within the City shall maintain and provide to both the alarm coordinator and the user's alarm monitor a current list of three (3) responsible parties for commercial alarms, or for residential alarms, at least two (2) responsible party and/or alarm company.
 - 1. A responsible party for an audible alarm system shall respond to the scene of the alarm within fifteen (15) minutes after being notified of a possible intrusion. A responsible party for an inaudible alarm system shall respond to the scene of the alarm within thirty (30) minutes after being notified of a possible intrusion.
 - 2. Reset the alarm system.
- B. The requirements as set forth in Section 5-6-9(A)(2) shall be satisfied if the alarm system is either automatically reset or is reset from a central location in such a way that the alarm does not reactivate until the alarm user, a responsible party or an alarm company physically responds to the scene of the alarm.
- C. In the event that a responsible party cannot be contacted by the Police Department, or does not arrive at the scene of an alarm within the time specified in 5-6-9(A)(i), or does not accept responsibility for the premises within said time frame, then and in that event, the Police Department shall have no further obligation to remain on scene or to otherwise secure the premises at which the alarm is activated.

5-6-10: FALSE ALARMS:

- A. In order to reimburse the City of Prescott for Police Department response, an alarm user shall be assessed in accordance with section 5-6-18 for each and every false alarm response by the Police Department.
- B. Upon receipt of the second false alarm within a permit year, the alarm coordinator shall notify the alarm user in writing to the User's permit address that subsequent false alarms may result in an additional fee. The user shall submit a False Alarm Prevention Report, on a form provided by the City, to the alarm coordinator outlining the action taken by the user to prevent further false alarms. The False Alarm Prevention Report shall be returned to the alarm coordinator within thirty (30) days and will outline the actions taken to discover and eliminate the cause of the false alarms and any violation of this Chapter.
- C. Any unpaid balance of an assessment shall be subject to a charge of EIGHTEEN percent (18%) per year.

5-6-11: AUDIBLE ALARMS:

Burglar, robbery or panic alarm systems shall not emit audible sounds longer than fifteen (15) minutes from the time the alarm is activated.

5-6-12: PROHIBITED DEVICES:

- A. Dialer Alarms. No person or business shall operate or use any alarm system which is equipped with a direct dial device that when activated, automatically dials any City of Prescott Police Department trunk or emergency telephone line, including the 911 phone system, or transmits a prerecorded message reporting a crime or other emergency.
- B. Vision Obscuring Devices. No person or business shall operate or use any alarm system that is equipped with a vision-obscuring device, which purpose is to obscure the vision of individuals on or entering the premises, that when activated automatically releases a vaporous substance.

5-6-13: PAYMENT OF FEES AND ASSESSMENTS:

Except as provided for herein, any and all fees and assessments provided for by this Chapter shall be paid to and received by the City of Prescott within thirty (30) days from the date a bill is deposited in the regular first class U.S. Mail with postage fully paid and addressed to the user at the mailing address listed on the alarm user's permit.

5-6-14: APPEAL PROCEDURE:

- A. The alarm user may, within twenty (20) days of the date of the mailing notice of assessment, appeal to the Police Chief (hereinafter "Chief") by filing a petition in writing with the Chief or his designee.
1. The petition shall contain specific defenses to the assessment. Affirmative defenses to a false alarm service fee assessment may include evidence that a false alarm was caused by an act of nature, action of the telephone company, telephone line outage, power outage lasting longer than the life of a fully charged battery, and other extraordinary circumstances not reasonably subject to control by the alarm user.
 2. Any petition submitted pursuant to paragraph A.1 of this section shall be received by the Chief or his designee within the time specified. If the petition is not timely submitted, any petitioner shall be deemed to have waived the right to any further review or hearing as provided herein and the initial assessment shall be final.
- B. If a petition is timely submitted pursuant to paragraph 1 of this section, the Chief or his designee shall review the defenses, if any, set forth in the petition.
1. If it is determined that a valid defense to the initial determination of false alarm assessment has been set forth, a notice will be sent to the alarm user that no assessment will be made for that particular alarm activation. The notice shall specifically set forth the findings and conclusions of the Chief or his designee with respect to the review of the initial assessment.
 2. If the Chief or his designee determines that a defense to the initial notice of assessment has not been set forth, a notice of decision shall be sent by mail to the alarm user that he will be assessed pursuant to the appropriate section. The notice of decision shall contain the specific findings and conclusions of the Chief or his designee with respect to the review of the initial assessment.

5-6-15: CONFIDENTIALITY:

To the full extent permitted by law, the information furnished by an alarm user to the alarm coordinator or alarm company pursuant to this Chapter shall be confidential and shall not be subject to public inspection.

5-6-16: INTENTIONAL MISUSE:

No person shall intentionally cause the activation of an alarm system without prior notification to the alarm coordinator of at least one (1) hour if such activity may result in

the dispatch of public safety personnel or equipment, when no criminal or other emergency situation exists.

5-6-17: ASSESSMENTS AND PENALTIES:

- A. Any person who violates any provision of this Chapter shall be guilty of a civil violation and shall be subject to the provisions of Section 1-3-2 of the Prescott City Code for each day that the violation continues.
- B. In addition to the foregoing penalty, the following assessments shall apply pursuant to Section 5-6-10(A):
1. Failure to acquire an alarm user permit as required per Section 5-6-7 will result in an assessment of not to exceed twenty-five dollars (\$25) per day.
 2. If neither the alarm user nor a listed responsible party nor the alarm company can be contacted, refuses to respond, or does not respond as required in Section 5-6-9(A), or if the alarm reactivates before there is a physical response as required in 5-6-9(A), the user shall be assessed Twenty Five Dollars (\$25.00) for residential alarms or Fifty Dollars (\$50.00) for commercial alarms for each such incident.
 3. The failure to file False Alarm Prevention Report as required in Section 5-6-10(B) will result in an assessment of not to exceed \$100 per violation.
 4. The following assessments shall be levied against the alarm user for each response by the Prescott Police Department to a false alarm within a twelve month period. These assessments are in addition to any other assessments or penalties which may be levied.

(a)	Initial assessment for first 2 false alarms:	\$ 0
(b)	Assessment for third false alarm:	\$100
(c)	Assessment for fourth false alarm:	\$200
(d)	Assessment for fifth false alarm:	\$300
(e)	Assessment for sixth false alarm:	\$400
(f)	Assessment for seventh and subsequent false alarms will continue to increase at \$100 per false alarm	
 5. Violations of section 5-6-11 (Audible Alarms) shall result in an assessment of \$100 for the first violation and a \$100 increase for each subsequent violation.
 6. Any person who violates Section 5-6-12 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code, provided, however, that notwithstanding the foregoing, the minimum fine for said violation shall be not less than One

Hundred Dollars (\$100.00), which fine shall not be waived or suspended. Each and every day any such violation continues shall be deemed and considered a separate offense.

7. Any person who violates Section 5-6-16 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code, provided, however, that notwithstanding the foregoing, the minimum fine for said violation shall be not less than Five Hundred Dollars (\$500.00), which fine shall not be waived or suspended.. Each and every day any such violation continues shall be deemed and considered a separate offense.

5-6-18: SEVERABILITY:

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the validity of any part thereof."

ORDINANCE NO. 4760-1111

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA AMENDING THE PRESCOTT CITY CODE BY DELETING CHAPTER 5-6, *INSTALLATION OF POLICE ALARM EQUIPMENT AND PROHIBITION OF TELEPHONE ALARM SYSTEMS*, AND REPLACING IT BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "*CHAPTER 5-6, ALARM SYSTEMS, OF THE PRESCOTT CITY CODE*," MADE A PUBLIC RECORD BY RESOLUTION NO. 4045-1115; AND SETTING PENALTIES THEREFOR

RECITALS:

WHEREAS, numerous false alarms occur annually as a result of negligent installation, maintenance, or operation of the alarm system; and

WHEREAS, the time spent by the Police Department personnel in responding to alarms, when no such response is actually required, is substantial, costly and wasteful; and

WHEREAS, the Council of the City of Prescott finds it necessary to control or discourage false alarms within the City so that all available Police Department resources can be maximized to protect the peace, safety and welfare of the public.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. Chapter 5-6, *Installation of Police Alarm Equipment and Prohibition of Telephone Alarm Systems*, of the Prescott City Code is hereby deleted in its entirety and replaced with "*Chapter 5-6, Alarm Systems, of the Prescott City Code*," made a public record by Resolution No. 4045-1115.

Section 2. Section 5-6-17, *Assessments and Penalties*, of the above-referenced public record is set forth in full as required by Arizona Revised Statutes 9-803.

5-6-17: ASSESSMENTS AND PENALTIES:

- A. Any person who violates any provision of this Chapter shall be guilty of a civil violation and shall be subject to the provisions of Section 1-3-2 of the Prescott City Code for each day that the violation continues.
- B. In addition to the foregoing penalty, the following assessments shall apply pursuant to Section 5-6-10(A):

1. Failure to acquire an alarm user permit as required per Section 5-6-7 will result in an assessment of not to exceed twenty-five dollars (\$25) per day.
2. If neither the alarm user nor a listed responsible party nor the alarm company can be contacted, refuses to respond, or does not respond as required in Section 5-6-9(A), or if the alarm reactivates before there is a physical response as required in 5-6-9(A), the user shall be assessed Twenty Five Dollars (\$25.00) for residential alarms or Fifty Dollars (\$50.00) for commercial alarms for each such incident.
3. The failure to file False Alarm Prevention Report as required in Section 5-6-10(B) will result in an assessment of not to exceed \$100 per violation.
4. The following assessments shall be levied against the alarm user for each response by the Prescott Police Department to a false alarm within a twelve month period. These assessments are in addition to any other assessments or penalties which may be levied.
 - (a) Initial assessment for first 2 false alarms: \$ 0
 - (b) Assessment for third false alarm: \$100
 - (c) Assessment for fourth false alarm: \$200
 - (d) Assessment for fifth false alarm: \$300
 - (e) Assessment for sixth false alarm: \$400
 - (f) Assessment for seventh and subsequent false alarms will continue to increase at \$100 per false alarm
5. Violations of section 5-6-11 (Audible Alarms) shall result in an assessment of \$100 for the first violation and a \$100 increase for each subsequent violation.
6. Any person who violates Section 5-6-12 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code, provided, however, that notwithstanding the foregoing, the minimum fine for said violation shall be not less than One Hundred Dollars (\$100.00), which fine shall not be waived or suspended. Each and every day any such violation continues shall be deemed and considered a separate offense.
7. Any person who violates Section 5-6-16 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code, provided, however, that notwithstanding the foregoing, the minimum fine for said violation shall be not less than Five Hundred Dollars (\$500.00), which fine shall not be waived or suspended.. Each and every day any such violation continues shall be deemed and considered a separate offense.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

COUNCIL AGENDA MEMO – August 31, 2010
DEPARTMENT: Parks, Recreation, & Library
AGENDA ITEM: Request approval to proceed with steps to complete land exchange with Arizona Public Service Company.

Approved By:	Date:
Department Head: Debbie Horton	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	08/20/10

Background

In July 2000, Prescott City Council approved a master plan for the area known as West Granite Creek Park to include the Granite and Miller Creek areas west of Montezuma Street/LaGuardia Bridge, most of which is owned by the City of Prescott. This planning effort coincided with the large voluntary Arizona Public Service Company (APS) environmental remediation project that occurred near their substation and maintenance yard (i.e., contaminated soil from the early 1900s manufactured gas plant), APS's efforts to revegetate the area with native tree species, and the joint-desire of City and local organizations to establish a non-motorized transportation trail system in the area to provide better connectivity for walkers and bicyclists between various downtown destinations. The master plan was also a result of the degradation that had occurred in this area. This area is also known Prescott's Greenways Phase I, and today provides the necessary trail connectivity that the Master Plan recommended. These improvements have been made possible through bed tax revenues, private donations, APS's assistance, and much volunteer labor. APS also donated lighting for added security to the area. As of 2010, many actions within the master plan have been completed.

One remaining action from the master plan, however, recommends a land exchange between City of Prescott and APS. APS is currently occupying 1/3-acre (6,430 sq. ft.) of City property at the east end of their maintenance yard, which they desire to own (COP #1 on map). APS is also desiring two ingress-egress easements (COP #2 & #2A on map) from the City for long-term access to their facilities (i.e., north end of Granite Street, and access from Lincoln Ave). APS also desires the ability to build a new substation in the future east of the existing substation to better serve Prescott-area customers. The current zoning allows for this future use. Meanwhile, the City is currently occupying and managing the 2.8-acre APS parcel north of their substation (APS #1 on map) with the placement of the Miller Creek Trail. This parcel also features a portion of the original dam from the 1880's City reservoir. This proposed land exchange was delayed for many years for various reasons, to include better defining boundaries, eliminating encroachment issues, providing ingress-egress easements near Sonora Ave, and APS also needed to secure approvals to transfer ownership of APS #1.

Agenda Item: Request approval to proceed with steps to complete land exchange with Arizona Public Service Company.

For this proposed land exchange, APS has incurred all costs associated with recent appraisals and survey work, is desiring to pay all escrow costs, and do not desire to be compensated by the City for the disparity in values. There is no cost to the City of Prescott.

The 1/3-acre parcel owned by the City that APS occupies and desires is valued at \$22,500. The two ingress-egress easements desired by APS are valued at the following: COP #2 - \$8,500, & COP #2A - \$3,200. Meanwhile, the 2.8-acre parcel owned by APS that benefits the City is valued at \$70,000. As mentioned above, even though the parcels are not equal in value, APS does not wish to be compensated from this exchange.

At this time, staff is requesting endorsement to move forward with necessary steps, to include the requirement of publishing a Notice to Exchange Real Property in the Prescott Daily Courier. Following this step, staff will return to Prescott City Council requesting the required ordinance for close of escrow.

Financial Impact

There is no financial impact from this project.

Recommended Action: MOVE to direct staff to publish necessary Notice to Exchange Real Property, and proceed with Arizona Public Service Company on necessary steps to complete exchange.

COUNCIL AGENDA MEMO – 8/31/2010
DEPARTMENT: Fire
AGENDA ITEM: Approval to submit Arizona Fuel Hazard Grant

Approved By:	Date:
Department Head: Bruce Martinez, Fire Chief	8/20/10
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	08/24/10

Background

Annually, the Prescott Area Wildland Interface Commission (PAWUIC) participates in the Western States Wildland Fire grant process for State and Local government assistance to communities on behalf of the City of Prescott. The City of Prescott has been ranked in the top three communities in Arizona to receive these grants since their inception in 2001. This grant process is the main reason the City of Prescott has been able to develop a model program for wildland fire protection and mitigation in the nation. This years PAWUIC grant application on behalf of the City of Prescott is for \$390,000 based on a 50 percent match.

During the annual Wildland Urban Interface grant process which is August of each year, the Fire Department has been made aware of an additional grant to assist our City in protecting our natural resources from a devastating wildfire, and improving forest and wildlife health. This new grant opportunity is entitled the Arizona Fuel Hazard Grant that is funded by supplemental federal funds from the Forest Service.

Status

The Fire Department on behalf of the City is proposing to apply for a \$210,000, 90 percent supplemental funding grant to conduct hazardous fuels treatments on 145 acres of City owned Goldwater Lake property. This fuels treatment proposal would restore the property to its natural state by reducing fuel loading. The Prescott National Forest and Groom Creek Fire District have recently treated the boundary of the lake property leaving the City owned 145 acres ready to burn without treatment. The desired outcome is to improve the health of the property and reduce the risk of a devastating wildfire. By reducing the vegetation the health of the trees and the wildlife will be improved. We plan on using the prescription utilized by the Forest Service to conduct the fuels reduction with our Wildland Division personnel in a low use season to minimize the impact to the public and the Park.

Financial

The requested grant amount is \$210,000 of which the City portion is approximately 10 percent or \$21,000. This grant could be awarded in the spring of 2011.

Recommended Action: MOVE to the Prescott Fire Department to apply for a \$210,000 supplemental funding, Arizona Fuel Hazard Grant.

**Arizona Fuel Hazard (WFHF)
Grant Application** (only complete this form if interested in supplemental Funding)

FOR OFFICIAL USE ONLY	
State Priority Number:	
Dollar Amount Requested:	
Matching Share:	

1	Applicant Information	
	Applicant:	City of Prescott Fire Department
	Contact Person:	Darrell Willis
	Address:	1700 Iron Springs Road
	City/Zip Code:	Prescott, AZ 86305
	Phone (Work/Cell):	928-777-1701/ 928-925-7311
	Email:	darrell.willis@prescott-az.gov
	Fax:	928-776-1890

2	Community At Risk Information				
	Project Name:	Goldwater Lake Fuels Reduction			
	Community Name:	Prescott/Groom Creek Arizona			
	County(ies):	Yavapai			
	Congressional District:	1			
	Adjacent National Forest(s)	Prescott National Forest			
	What portion of this project will be able to integrate with National Forest Activities	Acres:	145 acres	Costs:	\$210,000
	Brief Description – How this project integrates with the National Forest project:	The Goldwater Lake Fuels Reduction Project is surrounded by the Prescott National Forest and a small piece by the Groom Creek Fire District. This project will tie directly into both projects including the Prescott Basin Crush (PNF) and the Groom Creek WFHF projects reducing the risk of wildfire to Prescott and Groom Creek and improving wildlife habitat. (Bald Eagles in particular)			

COUNCIL AGENDA MEMO – 8/31/2010
DEPARTMENT: Public Works
AGENDA ITEM: Adoption of Resolution No 4044-1114 approving an intergovernmental agreement with the Yavapai County Flood Control District for cooperative funding of drainage projects.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	<i>08/20/10</i>

Item Summary

Approval of this item will accept funding in FY 11, in the amount of \$728,796.00 from the Yavapai County Flood Control District (YCFCD) to be used by the City for the approved drainage improvement projects located in Prescott. Projects include Yavapai Hills, Prescott Heights, Cliff Rose, and various other locations throughout the City.

Background

On July 19, 2010, the Yavapai County Board of Supervisors, in their capacity as the Flood Control District Board of Directors, approved the attached IGA to fund watershed management program activities. These activities include:

- The development of community drainage studies to identify problem areas and corresponding solutions,
- Designing drainage plans for specific problem locations, and
- Preparing engineering plans for identified drainage construction projects.

This watershed management approach will be an ongoing program that identifies problem areas, develops engineering plans and constructs the solutions, through Yavapai Flood Control District funding. Implementation of projects will be contingent upon the defined scope of work for each project, respective costs, and available funding.

Attachments

- YCFCD Correspondence
- Intergovernmental Agreement
- Resolution
- FY11 Watershed Management Project List

Recommended Action: MOVE to adopt Resolution No. 4044-1114.
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RESOLUTION NO. 4044-1114

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE YAVAPAI COUNTY FLOOD CONTROL DISTRICT (YCFCD) AND ACCEPTING FUNDING IN FY11 FOR COSTS ASSOCIATED WITH DRAINAGE IMPROVEMENT PROJECTS LOCATED IN THE YAVAPAI COUNTY PORTION OF THE CITY AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City and Yavapai County Flood Control District wish to enter into a certain intergovernmental Agreement for City to accept funds from YCFCD in FY11 for drainage improvement projects; and,

WHEREAS, the Yavapai County Board of Supervisors, in their capacity as the Flood Control District Board of Directors, approved the attached IGA to fund drainage improvement projects; and

WHEREAS, the City of Prescott and the Yavapai County Flood Control District have the authority to enter into the foregoing agreement pursuant to ARS Sections 11-952, 48-3603(9) and 9-240(5).

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the attached Intergovernmental Agreement with the Yavapai County Flood Control District for City to accept funds from YCFCD in FY11 for drainage improvement projects. This agreement shall supersede and replace all prior resolutions and intergovernmental agreements pertaining to the acceptance of funds for drainage improvement projects.

Section 2. THAT the Mayor and staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, AND ADOPTED by the Mayor and Council of the City of Prescott this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

When recorded in the Office of the
Yavapai County Recorder, return to:

Yavapai County
Flood Control District
500 S. Marina St.
Prescott, AZ 86303

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT, made this 19th day of July 2010, by and between YAVAPAI COUNTY FLOOD CONTROL DISTRICT, a special DISTRICT legally created in the State of Arizona (hereinafter called "DISTRICT") and the CITY OF PRESCOTT, a municipal corporation of the State of Arizona, (hereinafter call "CITY") for a period commencing July 1, 2010, and extending through, June 30, 2011.

WITNESSETH:

WHEREAS, the DISTRICT and the CITY have the authority to enter into Intergovernmental Agreements pursuant to Arizona Revised Statutes, Section 11-952, Section 48-3603(9) and Section 9-240(5); and,

WHEREAS, the CITY lies within the legal boundaries of the DISTRICT (Yavapai County); and,

WHEREAS, property owners within the corporate limits of the CITY pay ad valorem taxes to support the DISTRICT; and,

WHEREAS, the CITY has experienced storm water control and flooding problems for a number of years in various locations; and,

WHEREAS, the DISTRICT is authorized to expend funds for flood control projects (including storm water control) and has approved and budgeted amounts necessary to provide funding assistance for flood mitigation work.

NOW, THEREFORE, IT IS AGREED by and between the DISTRICT and the CITY as follows:

PURPOSE

The purpose of this Intergovernmental Agreement is for the DISTRICT to pay and contribute to the CITY a sum not to exceed SEVEN HUNDRED TWENTY EIGHT THOUSAND SEVEN HUNDRED NINETY SIX DOLLARS (\$728,796) for fiscal year 2010-11, to be used by the CITY for the approved Project.

1. The DISTRICT shall make said payments to the CITY in partial payments based upon monthly billings from the CITY.
2. The CITY shall use said DISTRICT funds exclusively for reimbursement of costs associated with the drainage improvement projects located in the Yavapai County portion of the CITY. Invoices shall be provided to the DISTRICT for review prior to reimbursement.
3. The CITY shall be responsible for the administration, right-of-way acquisition, design, construction, inspection and materials necessary to complete the project.

DURATION

The term of this Agreement is for the fiscal year 2010-11.

RENEWAL

Both parties may renew this Agreement if said work is not completed within the time specified herein.

SEVERABILITY

The parties agree that if any part or parts of this Intergovernmental Agreement are held to be void or unenforceable by a court of competent jurisdiction, the remaining parts of the Agreement shall remain in full force and effect.

ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties with respect to the subject matters herein, and it may be amended, modified, or waived only by an instrument in writing signed by both parties. This Agreement is subject to cancellation pursuant to ARS §38-511.

INDEMNIFICATION

The CITY and the DISTRICT each agree to hold the other party harmless and indemnify the other for any loss, liability, or damages arising from any action, omission, or negligence of each party's employees, officers, or agents, regarding the performance of this Intergovernmental Agreement.

NOTICE

Notices relating to this Intergovernmental Agreement shall be deemed to have been duly delivered upon person delivery, or receipt after mailing by United States mail, postage prepaid, addressed as follows:

City of Prescott

City of Prescott
c/o Public Works Director
P.O. Box 2059
Prescott, AZ 86302

Yavapai County

Yavapai County Flood Control District
c/o Flood Control District Director
500 S. Marina St.
Prescott, AZ 86303

Either party may change these addresses by giving notice in writing. Such changes shall be deemed to have been effectively noticed five (5) calendar days after being mailed to each party by the party changing the address.

RECORDING

This Intergovernmental Agreement shall be recorded in the Office of the Yavapai County Recorder upon its proper approval and execution by the authorized representatives of both parties, pursuant to ARS §11-952(G).

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this _____ day of _____, 2010.

Marlin Kuykendall, Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED by the Yavapai County Flood Control District this _____ day of _____ 2010.

A. G. "Chip" Davis, Chairman
Board of Directors

ATTEST:

Julie Ayers, Clerk of the Board
Yavapai County Flood Control District

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with A.R.S. §11-952, this proposed Intergovernmental Agreement for funding these projects has been reviewed by the undersigned City attorney who has determined that said Agreement is in appropriate form and is within the powers and authority of the City of Prescott.

City Attorney

Date: _____, 2010.

In accordance with A.R.S. §11-952, this proposed Intergovernmental Agreement for funding these projects has been reviewed by the undersigned county attorney who has determined that said Agreement is in appropriate form and is within the powers and authority of the Yavapai County Flood Control District.

Deputy County Attorney

Date: _____, 2010.

YAVAPAI COUNTY
Flood Control District

500 S. Marina Street, Prescott, AZ 86303
Prescott - (928) 771-3197 Fax: (928) 771-3427



10 S. 6th Street, Cottonwood, AZ 86326
Cottonwood - (928) 639-8151 Fax: (928) 639-8118

July 22, 2010

Honorable, Marlin Kuykendall, Mayor
City of Prescott
P.O. Box 2059
Prescott, AZ 86302

Re: City of Prescott Intergovernmental Agreement (IGA) Funding Request FY 09/10

Dear Mayor Kuykendall:

The District has requested \$728,796, in its current FY 2010-11 budget. These funds are to provide assistance to the City for local drainage improvements.

The IGA was approved by the Board of Supervisors during their regularly scheduled meeting on Monday July 19, 2010.

Attached are three originals of the IGA for your review. If the content of the IGA is acceptable, with no changes needed, please sign all three and return all three originals to me.

A fully executed original copy will be returned to you after it has been signed by the Chairman of the Board of Supervisors.

Should you have any questions, please contact me.

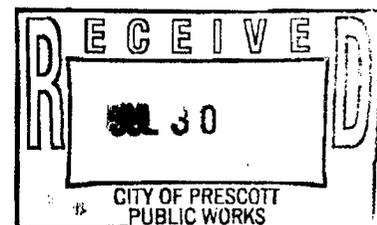
Sincerely,
YAVAPAI COUNTY FLOOD CONTROL

A handwritten signature in black ink, appearing to read "Charles A. Cave".

Charles A. Cave, P.E., CFM
Flood Control District Director
(928) 771-3197 FAX 771-3427

CAC/dc

C: Greg Toth, Drainage Engineer, City of Prescott



FY11 WATERSHED MANAGEMENT PROJECT LIST

Comprehensive Drainage Planning and Design

1. Yavapai Hills
2. Prescott Heights

Miscellaneous Drainage Projects (Design and Construct)

1. Garland Avenue
2. Hornet Drive
3. Cactus Drive
4. Jovian Drive
5. Smoke Tree Lane
6. Willow Creek Gabion Replacement

Miscellaneous Drainage Projects (Design Only)

1. Plaza Drive
2. Willow Creek Scour
3. Acker Park Entry
4. Acker Park Pond
5. Cliff Rose @ Senior Center

COUNCIL AGENDA MEMO – August 31, 2010
DEPARTMENT: FINANCE
AGENDA ITEM: Council Action for Debt Issuance through WIFA

Approved By:

Date:

Department Head:	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>Mark Woodfill for</i>	<i>8-24-10</i>

ITEM

These resolutions are to authorize the application to WIFA for the financing of the projects outlined below. If the WIFA board approves the financing, there will be additional action that the Council will need to take to complete the transaction.

BACKGROUND

Several utility projects were identified to be financed through a debt issue in the FY2011 budget process. The following projects are ready to proceed forward:

The Virginia Street and Penn Alley Wastewater Line Replacement, Airport Wastewater Treatment Plant Upgrades – 3.75 MGD, and Sundog Filter Replacement & Denitrification projects are budgeted in the **Wastewater Fund**. These projects are eligible to be financed through the State's Water Infrastructure Finance Authority (WIFA) **clean water program**.

Small Water Main Upgrade projects including 1) Flatau Dr and Overstreet Dr, Leroux St and Granite St and 2) Rodeo Grounds, Tolemac to Wildwood Dr connection and Ute Rd are budgeted in the **Water Fund**. These projects are eligible to be financed through the State's Water Infrastructure Finance Authority (WIFA) **drinking water program**.

The Virginia Street and Penn Alley Wastewater Line Replacement, Sundog Filter Replacement & Denitrification and Small Water Main Upgrade projects are **supported by the City's current water and wastewater rate structure**. The final project, Airport Wastewater Treatment Plant Upgrades – 3.75 MGD, is **dependent upon the direction Council takes with implementing new rates**.

The next step, should the Council authorize the debt, would be for WIFA to prioritize the projects at their September 2010 meeting. Once the projects are prioritized, the three supportable projects would be considered for funding at their October 2010 meeting. The final project will be placed on hold until Council provides further direction. This debt would be backed and repaid with revenues from the Wastewater and Water Enterprise Funds respectively and be for a twenty-year term.

AGENDA ITEM: Council Action for Debt Issuance through WIFA

ATTACHMENTS

- Resolution No. 4040-1110
Virginia Street & Penn Alley Sewer Replacement Project
- Resolution No. 4041-1111
Airport Wastewater Treatment Plant Upgrades – 3.75 MGD
- Resolution No. 4042-1112
Small Water Mains Projects
- Resolution No. 4043-1113
Sundog Filter Replacement & Denitrification Project

Recommended Action: MOVE to adopt Resolution Nos. 4040-1110, 4041-1111, 4042-1112 and 4043-1113.

RESOLUTION NO. 4040-1110

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$2,070,000 for the Virginia Street & Penn Alley Sewer Replacement Project; and

WHEREAS, the City of Prescott population at the time of this request is 43,217, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$2,070,000 payable from revenues for the wastewater system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 4041-1111

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$45,802,753 for the Airport Wastewater Treatment Plant Upgrades – 3.75 MGD Project; and

WHEREAS, the City of Prescott population at the time of this request is 43,217, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$45,802,753 payable from revenues for the wastewater system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 4042-1112

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A DRINKING WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a water capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its water system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$1,060,000 for the Small Water Mains Projects; and

WHEREAS, the City of Prescott population at the time of this request is 43,217, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Drinking Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$1,060,000 payable from revenues for the water system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 4043-1113

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AUTHORIZE THE APPLICATION FOR A CLEAN WATER STATE REVOLVING FUND LOAN FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA)

RECITALS:

WHEREAS, the City of Prescott of Yavapai County has identified a need for a wastewater capital improvement project; and

WHEREAS, pursuant to Arizona Revised Statutes 9-521 through 540, and specifically A.R.S. 9-571, the City of Prescott may obligate the revenues generated by its wastewater system to repay a loan from WIFA; and

WHEREAS, the City of Prescott of Yavapai County certifies that the population of the community is under 50,000 in population as the most recent U.S. Census Date; and

WHEREAS, it is in the City of Prescott's best interest to pursue and apply for, financial assistance from WIFA of an amount not to exceed \$3,000,000 for the Sundog Filter Replacement & Denitrification Project; and

WHEREAS, the City of Prescott population at the time of this request is 43,217, which meets the requirement under A.R.S. 9-571.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Finance Director of the City of Prescott is hereby authorized to apply for Clean Water State Revolving Fund financial assistance from the Water Infrastructure Finance Authority of Arizona.

SECTION 2. THAT, the Finance Director is authorized to take such actions as are necessary to apply for financial assistance in an amount not to exceed \$3,000,000 payable from revenues for the wastewater system.

SECTION 3. THAT, all actions of the officers and agents of the City of Prescott which conform to the purposes and intent of this resolution and which further the completion of the application as contemplated by this resolution, whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers and agents of the City of Prescott are hereby authorized and directed to do all such acts and

COUNCIL AGENDA MEMO – (08/31/2010)	
DEPARTMENT:	City Clerk
AGENDA ITEM:	Suspension of a portion of Rule 4 of the City Council Rules of Procedure

Approved By:		Date:
Department Head:	Elizabeth A. Burke, City Clerk	08/18/2010
Finance Director:	Mark Woodfill	
City Manager:	Steve Norwood 	08/24/10

Summary

This item is to suspend a portion of Rule 4 of the Rules of Procedure to allow changes to the submittal time for Public Comment items to coincide with the current meeting schedule.

Background

In February the City Council adopted new Rules of Procedures that included that there would no longer be Study Sessions held on the first and third Tuesday of each month, Regular Voting Meetings of the Council would be held on the second and fourth Tuesday of each month, and other meetings would be scheduled as needed. It was agreed that this would be for a three-month trial period, and earlier this month Council agreed to continue that schedule through the end of this calendar year, with the direction that further consideration be given to the off-Tuesdays.

As was discussed at the 8/17/2010 Workshop, the attached schedule will be followed through the end of this year. The second paragraph of Rule 4 of the Rules of Procedure state that, *“at regular meetings of the council, members of the public may be permitted to speak on an item not otherwise listed on the agenda, if they have requested to do so by giving notice to the City Clerk of their name, address, phone number, and topic. Said notice is to be given no later than 5:00 p.m. on the second Friday preceding the regular meeting....”*

Since this is still a trial period staff is recommending that rather than adopt a resolution to amend the rules, that this portion of Rule 4 be suspended as permitted under Rule 14, *Motion to Suspend the Rules*, of the Rules of Procedure. The same time frame would be followed, but it would be the second Friday preceding the first Tuesday’s Workshop.

Once the Council has determined which procedure they want to follow permanently, a resolution would be considered to amend the Rules of Procedure to address whatever changes, if any, have been decided.

Recommended Action: MOVE to suspend the portion of Rule 4 of the Rules of Procedure dealing with Public Comment items.

things and to execute and deliver all such application documents on behalf of the City of Prescott as may be necessary to carry out the terms and intent of this resolution.

PASSED and ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 31st day of August, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney