

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

**PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
TUESDAY, OCTOBER 12, 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:** Reverend Julia McKenna, Spiritual Architect
- ◆ **PLEDGE OF ALLEGIANCE:** Councilwoman Linn
- ◆ **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. PROCLAMATION

- A. October as *United Way Month*.

II. REGULAR AGENDA

- A. Public Hearing and consideration of a liquor license application from Janice Louise Martin, applicant for Safeway #274 for a Series 9S, Sampling, license for Safeway #274 located at 450 White Spar.
- B. Public Hearing and consideration of a liquor license application from Janice Louise Martin, applicant for Safeway #245 for a Series 9S, Sampling, license for Safeway #245 located at 1044 Willow Creek Road.

- C. Adoption of Resolution No. 4047-1117 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into a Library Service Agreement for FY2010/2011 with the Yavapai County Library District to participate in cooperative funding for the benefit of the City of Prescott Public Library, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above. (Contribution from YCLD to City of Prescott Public Library in amount of \$589,156)
- D. Award of bid and contract for the Virginia Street Sewer Replacement Project to A. Miner Contracting, Inc., in an amount not to exceed \$1,087,737.00.
- E. Award of bid and contract for Zone 24 Reservoir Replacement Project to CLM Earthmovers, LLC in an amount not to exceed \$1,019,477.50.
- F. Adoption of Resolution No. 4048-1118 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, accepting U.S. Department of Homeland Security, Cooperating Technical Partners Grant, in the amount of \$350,000 for the Federal Emergency management Agency (FEMA) Flood Insurance Map Updates and authorizing the execution of any and all documents to implement same.
- G. Adoption of Ordinance No. 4762-1113 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the purchase of easements from Donald H. Cramer, Bernard J. and Barbara T. Sheridan, Watson Family Trust, Ross M. and Ann Mellencamp, and Daniel R. and Janet S. Conrad, for the construction of the Zone 19 12-inch transmission main, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchases.
- H. Adoption of Ordinance No. 4765-1116 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, Authorizing the Purchase of Real Property Belonging to the James Deep Well Ranches #1, L.L.C. for the Siting and Construction of a New Airport Zone Production/Recovery Well, and authorizing the Mayor and City staff to take all necessary steps to effectuate said purchase.
- I. Comprehensive Sign Plan for Tim's Subaru located at 3230 Willow Creek Rd.; Owner: TC Land Management LLC; Agent: A&B Signs; Zoning Industrial Light, APN: 106-08-008D.
- J. Adoption of Ordinance No. 4763-1114 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, to amend Title X, *Land Development Code*, of the Prescott City Code, by Amending Section 9.1, *Common Procedure*.
- K. In Lieu of Parking in Downtown Business District:

1. Adoption of Ordinance No. 4764-1115 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending Title X, *Land Development Code*, of the Prescott City Code by providing for Changes to Sections 4.9, *Downtown Business (DTB)*; Section 6.2, *Off-Street Parking & Loading*; and Table 11.2, *Terms Defined*.
 2. Adoption of Resolution No. 4749-1119 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, adopting an In-Lieu Parking Fee for the Downtown Business District (DTB).
- L. Approval of the minutes of the Prescott City Council Special Meeting of September 24, 2010, the Workshop of September 28, 2010, and the Regular Voting Meeting of September 28, 2010.
- M. Recess into Executive Session.

III. 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 A.R.S. §§38-431.03(A)(3) and (4).
1. Centerpointe East/Side Road Interchange.

IV. 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 – (10/12/10)

DEPARTMENT: City Clerk

AGENDA ITEM: Public Hearing and consideration of a liquor license application from Janice Louise Martin, applicant for Safeway #274 for a Series 9S, Sampling, license for Safeway #274 located at 450 White Spar.

Approved By:	Date:
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Department Head: Elizabeth A. Burke	10/12/10
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Finance Director: Mark Woodfill	10/12/10
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City Manager: Steve Norwood	10/12/10
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A Liquor License Application, City No. 11-166, State No. 09130019S, has been received from Janice Louise Martin, Applicant for Safeway #274, for a Series 9S, Sampling License for **Safeway #274** located at 450 White Spar.

The public hearing will be held at the Regular Council Meeting of Tuesday, October 12, 2010. The applicant has been requested to attend the meeting to answer any questions Council may have.

This license application is due to a new license offered by the State. A.R.S. 4-206.01. *Bar, beer and wine bar or liquor store licenses; number permitted; fee; sampling privileges*, allows either a new liquor store applicant or one holding an existing liquor store license to apply for sampling privileges, with the following conditions:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
3. The licensee retailer shall make sales of sampled products from the licensed retail premises.
4. The licensee shall not charge any customer for the sampling of any products.
5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
6. Accurate records of sampling products dispensed shall be retained by the licensee.
7. Sampling shall be limited to three ounces of beer or cooler-type products, one ounce of wine and one ounce of distilled spirits per person, per brand, per day.
8. The sampling shall be conducted only on the licensed premises.

This Safeway store already holds a Series 9, Liquor Store, license. A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) MOVE to close the Public Hearing, and (2) MOVE to approve/deny State Liquor License Application No. 09130019S, for a new Series 9S, Sampling, for Janice Louise Martin applicant for Safeway #274 located at 450 White Spar.

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4).

**ARIZONA STATE LIQUOR LICENSES
TYPES / PURPOSES
AS OF 09/10**

SERIES 01 -- In-State Producer's License

Allows an in-state producer to produce or manufacture spirituous liquor and sell the product to a licensed wholesaler.

SERIES 02 -- Out-of-State Producer's License

Allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into the state to a licensed Arizona wholesaler.

SERIES 02L -- Limited Out-of-State Winery Application License

Allows an out-of-state winery to sell 50 cases of wine or less per calendar year and ship the wine into the state to an Arizona licensed wholesaler.

SERIES 02L -- Limited Out-of-State Domestic Farm Winery Application License

Allows an out-of-state domestic winery within or outside of the U.S. to produce less than 20,000 gallons of wine annually and ship the wine into the state to a licensed wholesaler.

SERIES 02L -- Limited Out-of-State Domestic Microbrewery Application License

Allows an out-of-state domestic microbrewery within or outside of the U.S. to ship beer into the state to a licensed Arizona wholesaler.

SERIES 03 -- Domestic Microbrewery License

Allows the licensee of a microbrewery to manufacture or produce at least 5,000 gallons but less than 310,000 gallons of beer annually.

SERIES 04 -- Wholesaler's License

Allows a wholesaler to warehouse and distribute for sale, spirituous liquor to a licensed retailer.

SERIES 05 -- Government License

Allows the holder of a government license to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. The license is issued in the name of a county, city, town or state university whose governing body has authorized its use.

SERIES 06 -- Bar License – TRANSFERABLE

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

SERIES 07 -- Beer and Wine Bar License - TRANSFERABLE

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

SERIES 08 -- Conveyance License (Airplanes, Trains, and Boats)

Allows the owner or lessee of an operating airline, railroad or boat to sell all spirituous liquors in individual portions or in original containers for consumption *only* on the plane, train or boat.

SERIES 09 -- Liquor Store License (All spirituous liquors) - TRANSFERABLE

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

SERIES 09S -- Liquor Store (Sampling) License

Allows either a new liquor store applicant or one holding an existing liquor store license to apply for sampling privileges, with conditions.

SERIES 10 -- Beer and Wine Store License (Beer and wine only)

Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

SERIES 11 -- Hotel/Motel License (with Restaurant)

Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

SERIES 12 -- Restaurant License

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

SERIES 13 -- Domestic Farm Winery License

Allows a domestic farm winery licensee to manufacture or produce more than 200 gallons, but less than 40,000 gallons on wine annually.

SERIES 14 -- Club License

Allows the holder of a club license to sell and serve spirituous liquor for consumption only on the premises owned, leased or occupied by the club, and only to bona fide members of the club and their guests.

SERIES 15 -- Special Event License

Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

SERIES 16 -- Wine Festival/Wine Fair License (Temporary)

1. *Wine festival license:* Allows a licensed domestic farm winery to serve samples of its products on the wine festival premises and the sale of such products in original containers for consumption off the wine festival premises.
2. *Wine fair license:* Allows a licensed domestic farm winery to serve samples of its products at a sanctioned county or state fair, and the sale of such products in original containers for consumption off the fair premises.

SERIES 17 -- Direct Shipment License

Allows an out-of-state producer, exporter, importer, or rectifier, blender or other producer of spirituous liquor to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer.

COUNCIL AGENDA MEMO – (10/12/10)

DEPARTMENT: City Clerk

AGENDA ITEM: Public Hearing and consideration of a liquor license application from Janice Louise Martin, applicant for Safeway #245 for a Series 9S, Sampling, license for Safeway #245 located at 1044 Willow Creek Road.

Approved By:	Date:
Department Head: Elizabeth A. Burke	10/12/10
Finance Director: Mark Woodfill	10/12/10
City Manager: Steve Norwood	10/12/10

A Liquor License Application, City No. 11-167, State No. 09130023S, has been received from Janice Louise Martin, Applicant for Safeway #245, for a Series 9S, Sampling License for **Safeway #245** located at 1044 Willow Creek Road.

The public hearing will be held at the Regular Council Meeting of Tuesday, October 12, 2010. The applicant has been requested to attend the meeting to answer any questions Council may have.

This license application is due to a new license offered by the State. A.R.S. 4-206.01. *Bar, beer and wine bar or liquor store licenses; number permitted; fee; sampling privileges*, allows either a new liquor store applicant or one holding an existing liquor store license to apply for sampling privileges, with the following conditions:

1. Any open product shall be kept locked by the licensee when the sampling area is not staffed.
2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling.
3. The licensee retailer shall make sales of sampled products from the licensed retail premises.
4. The licensee shall not charge any customer for the sampling of any products.
5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee.
6. Accurate records of sampling products dispensed shall be retained by the licensee.
7. Sampling shall be limited to three ounces of beer or cooler-type products, one ounce of wine and one ounce of distilled spirits per person, per brand, per day.
8. The sampling shall be conducted only on the licensed premises.

This Safeway store already holds a Series 9, Liquor Store, license. A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) **MOVE** to close the Public Hearing, and (2) **MOVE** to approve/deny State Liquor License Application No. 09130023S, for a new Series 9S, Sampling, for Janice Louise Martin applicant for Safeway #245 located at 1044 Willow Creek Road.

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4).

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Allows an out-of-state winery to sell 50 cases of wine or less per calendar year and ship the wine into the state to an Arizona licensed wholesaler.

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Allows an out-of-state domestic winery within or outside of the U.S. to produce less than 20,000 gallons of wine annually and ship the wine into the state to a licensed wholesaler.

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SERIES 03 -- *Domestic Microbrewery License*

Allows the licensee of a microbrewery to manufacture or produce at least 5,000 gallons but less than 310,000 gallons of beer annually.

SERIES 04 -- *Wholesaler's License*

Allows a wholesaler to warehouse and distribute for sale, spirituous liquor to a licensed retailer.

SERIES 05 -- *Government License*

Allows the holder of a government license to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. The license is issued in the name of a county, city, town or state university whose governing body has authorized its use.

SERIES 06 -- *Bar License – TRANSFERABLE*

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

SERIES 07 -- *Beer and Wine Bar License - TRANSFERABLE*

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

SERIES 08 -- *Conveyance License (Airplanes, Trains, and Boats)*

Allows the owner or lessee of an operating airline, railroad or boat to sell all spirituous liquors in individual portions or in original containers for consumption *only* on the plane, train or boat.

SERIES 09 -- Liquor Store License (All spirituous liquors) - TRANSFERABLE

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SERIES 12 -- Restaurant License

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

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Allows a domestic farm winery licensee to manufacture or produce more than 200 gallons, but less than 40,000 gallons on wine annually.

SERIES 14 -- Club License

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SERIES 15 -- Special Event License

Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

SERIES 16 -- Wine Festival/Wine Fair License (Temporary)

1. *Wine festival license:* Allows a licensed domestic farm winery to serve samples of its products on the wine festival premises and the sale of such products in original containers for consumption off the wine festival premises.
2. *Wine fair license:* Allows a licensed domestic farm winery to serve samples of its products at a sanctioned county or state fair, and the sale of such products in original containers for consumption off the fair premises.

SERIES 17 -- Direct Shipment License

Allows an out-of-state producer, exporter, importer, or rectifier, blender or other producer of spirituous liquor to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer.

COUNCIL AGENDA MEMO – October 12, 2010

DEPARTMENT: Parks, Recreation and Library

AGENDA ITEM: Approve Library Service Agreement between Yavapai County Library District and the City of Prescott

Approved By:

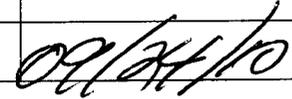
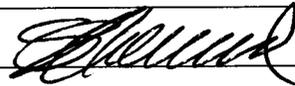
Date:

Department Head: Debbie Horton

09/22/2010

Finance Director: Mark Woodfill

City Manager: Steve Norwood



Background

The Yavapai County Library District is a Special District established in 1987 by the Yavapai County Board of Supervisors within the auspices of Yavapai County government. It includes 20 affiliated public libraries in Yavapai County by means of intergovernmental agreements with incorporated areas and library service agreements with unincorporated areas. The countywide Library District provides supplemental funding for library operations and library materials for all affiliated public libraries.

The FY 2010/2011 Library Service Agreement provides for the contribution of **\$589,156** to be distributed as follows:

- \$200,000** for library services,
- \$ 75,000** for library materials, and
- \$314,156** for automation and special projects.

The agreement requires the Prescott Public Library to participate in resource sharing with the rest of Yavapai County, through opening our doors to all county residents and through interlibrary loan services. It also requires that District funds be used specifically and solely for library materials, services and operating expenses.

The FY 2010/2011 contribution represents a 5% increase over FY2009/2010. The first half of the total contribution in the amount of \$294,578 will be received in November 2010. The second half of the total contribution will be received in May 2011.

Recommended Action: MOVE to adopt Resolution No. 4047-1117.

RESOLUTION NO. 4047-1117

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A LIBRARY SERVICE AGREEMENT FOR FY2010/2011 WITH THE YAVAPAI COUNTY LIBRARY DISTRICT TO PARTICIPATE IN COOPERATIVE FUNDING TO THE BENEFIT OF THE CITY OF PRESCOTT PUBLIC LIBRARY, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE

RECITALS:

WHEREAS, the City desires to receive cooperative funding from the Yavapai County Library District for library services, materials, automation and operating expenses as well as to share library resources with Yavapai County through allowing use of the Prescott Library by county residents and participating in interlibrary loan services; and

WHEREAS, for FY200102011 the Library Service Agreement provides for a total contribution of \$589,156 to be distributed as follows: \$200,000 for library services; \$75,000 for library materials, and \$314,156 for automation and special projects; and

WHEREAS, ARS §§11-951 and 11-952 authorize "public agencies" such as Prescott and the Yavapai County Library District to enter into agreements for cooperative resource sharing; and

WHEREAS the parties hereto wish to enter into an agreement to provide for cooperative funding for library services, materials, automation and operating expenses as well as library resource sharing.

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 Library Service Agreement with Yavapai County Library District for cooperative funding from the Yavapai County Library District and sharing of library materials, operations as well as library resources attached hereto as Exhibit "A".

Section 2. THAT the Mayor and staff are hereby authorized to execute the attached Library Service 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 12th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

YAVAPAI COUNTY FREE LIBRARY DISTRICT
LIBRARY SERVICE AGREEMENT

This agreement is entered into between the **YAVAPAI COUNTY FREE LIBRARY DISTRICT**, hereinafter referred to as the "District," and the **City of Prescott**, hereinafter referred to as the "City," and shall be for a period commencing July 1, 2010 to June 30, 2011.

WHEREAS, the Yavapai County Board of Supervisors has established a County Library District, pursuant to A.R.S. 48-3901, on June 1, 1987; and

WHEREAS, the District has an agreement with the Department of Library, Archives and Public Records of the State of Arizona, hereinafter referred to as the "State Library," to provide library services within Yavapai County and the State of Arizona; and

WHEREAS, the District and the City recognize the need to cooperate in the provision of library services to the citizens of the District; and

WHEREAS, the City has taken action and officially notified the District that it desires to be a part of the District, and therefore is entitled to the benefits of the District; and

WHEREAS, the City operates and maintains a library and the District desires to contract with the City for library services for the benefit of the citizens of the District; and

NOW THEREFORE, IT IS AGREED by and between the District and the City as follows:

1. Equal access and use of the library facilities and services shall be made available to all citizens of the County.
2. The City and the District shall cooperate in planning and implementing resource sharing activities acceptable to the District and the City.
3. All library materials purchased with District funds are the property of the City.
4. It is understood by both parties that officials, employees and agents of the District remain the sole responsibility of the District. It is further understood that the officials, employees and agents of the City remain the sole responsibility of the City.
5. Except as expressly specified in this agreement, the District shall save, hold harmless and indemnify the City and the City's officials, employees and agents against all expenses, liabilities and claims of every kind arising from any intentional or negligent act or omission by the District or the District's officials, employees and agents.

6. Except as expressly specified in this agreement, the City shall save, hold harmless and indemnify the District and the District officials, employees and agents against all expenses, liabilities and claims of every kind arising from any intentional or negligent act or omission by the City or the City's officials, employees and agents.
7. The City agrees to the following conditions:
 - A. Required monthly statistics are maintained and submitted to the District within five **(5)** calendar days of the month's end.
 - B. The annual Arizona State Library Data Report is submitted to the District as required by the State Library.
 - C. Resource sharing is supported by participating in interlibrary loan services as a borrower and lender of library materials.
 - D. District funds are used specifically and solely for library materials, services and operating expenses. District funds may not be accumulated from year to year. An annual written accounting shall be made to the District describing the manner and use of District funds as required by the District.
 - E. The City is responsible for all terms and conditions of this agreement. District funds may not be transferred to any other agency without prior written agreement with the District.
8. The District will provide the following benefits and support services to the library:
 - A. Professional assistance and consultation services.
 - B. Continuing education opportunities for staff and volunteers.
 - C. Coordination of county-wide library services.

9. The City and the District acknowledge that the services to be performed by the City have a value to the District and to the City. In consideration of that value, the District agrees to provide financial resources for the operation of the Prescott Public Library as follows:
 - To pay the City the amount of **\$589,156.00** in two (2) equal installments of **\$294,578.00** (November and May): **\$200,000.00** for library services, **\$314,156.00** for automation and special projects and **\$75,000.00** for library materials.
10. This agreement may be renewed from year to year by mutual agreement of the parties and stipulation as to the consideration to be paid as between the parties.
11. This agreement contains the entire agreement of the parties with respect to the subject matter hereof and, it may be amended, modified or waived only by an instrument in writing signed by both parties.
12. 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, negotiating, 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, negotiating, securing, drafting or creating this agreement on behalf of the City from any other party to the agreement arising as a result of this agreement.
13. The parties shall comply with Executive Order #99-4 (dated January 29, 1998) concerning non-discrimination in employment.
14. The parties agree that it is their intention that this Agreement be effective on and from July 1, 2010, even if the date varies from the dates of actual signature.

IN WITNESS THEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officials on the aforementioned date.

CITY OF PRESCOTT

YAVAPAI COUNTY FREE LIBRARY DISTRICT

Mayor

Chairman, Board of Directors

ATTEST:

ATTEST:

City Clerk

Clerk of the Board

Date

Date

Pursuant to A.R.S. Section 11-952(B)&(D), the foregoing agreement has been reviewed by the undersigned attorney for the City, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of the State to the City.

City Attorney

Pursuant to A.R.S. Section 11-952(B)&(D), the foregoing agreement has been reviewed by the undersigned attorney for the Yavapai County Free Library District, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of the State to Yavapai County.

Deputy County Attorney

COUNCIL AGENDA MEMO – October 12, 2010	
DEPARTMENT: Public Works	
AGENDA ITEM: Award of bid and contract for the Virginia Street Sewer Replacement Project to A. Miner Contracting, Inc., in an amount not to exceed \$1,087,737.00, requiring Davis-Bacon wages.	

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	10/06/10

Item Summary

This item is to approve a construction contract with A. Miner Contracting, Inc., Prescott, Arizona for the replacement of the sewer main in Virginia Street. (See attached map) The new sewer main will replace a shallow and deteriorated 6-inch sewer main in Virginia Street from Sheldon Street to Acker Park.

Background

Sewer Mainline Replacement Virginia Street

The City annually budgets funds for the replacement and/or rehabilitation of sewer mains identified as failing or high-maintenance through sewer system investigations, work order tracking and mainline camera reports. Replacement of these sewer mains will reduce maintenance costs, service calls, and overflows. New sewer services will be installed beyond the back of curb with the new mains. The sewer system improvement included in this project is:

Virginia Street - Install 3,330 LF 10" sewer main from Sheldon Street to Acker Park, 67 private sewer services, construct 17 new manholes, replace 5,675 SY of asphalt and abandon the existing 6-inch sewer main with adjoining services and manholes.

Trenchless technology (horizontal bore) will be used to reduce traffic impacts at Gurley Street.

Bid Results

On July 29, 2010, nine bids were received from companies in 6 different Arizona cities. The project was advertised requiring a base bid and bid alternate; the bid alternate requires the contractor to pay Davis-Bacon wages to workers on the project. Accepting the bid alternate with Davis-Bacon wages will allow the City to obtain project financing through Water Infrastructure Financing of Arizona (WIFA). Base bids and Davis-Bacon bids are listed below:

Agenda Item: Award of bid and contract for the Virginia Street Sewer Replacement Project to A. Miner Contracting, Inc., in an amount not to exceed \$1,087,737.00, requiring Davis-Bacon wages.

<u>Company</u>	<u>Location</u>	<u>Base Bid</u>	<u>Davis-Bacon Bid</u>
A Miner Contracting	Prescott, AZ	\$1,087,737.00	\$1,087,737.00
CLM Earthmovers, LLC	Prescott, AZ	\$1,163,536.91	\$1,199,536.91
Tierra Contracting Inc.	Glendale, AZ	\$1,192,996.00	\$1,224,285.88
Fann Contracting, Inc.	Prescott, AZ	\$1,168,181.00	\$1,236,168.00
Eagle Mountain Construction	Flagstaff, AZ	\$1,248,194.50	\$1,295,864.50
Michael J Valente Contracting	Phoenix, AZ	\$1,315,592.12	\$1,346,702.33
Asphalt Paving & Supply, Inc.	Prescott Valley, AZ	\$1,391,540.25	\$1,484,445.00
T & T Construction	Fountain Hills, AZ	\$1,783,018.50	\$1,783,018.50
Technology Construction	Prescott, AZ	\$1,807,000.00	\$1,969,000.00
Engineer's Estimate			\$1,521,950.00

Written confirmation of bid has been received from low bidder A. Miner Contracting. Verification of the company's license, bonding, references, and successful performance of similar projects in the past has been completed.

Project Schedule

Commence Construction	October, 2010
Completion	February, 2011

Budget

FY11 funding was budgeted and is available for the project from Sewer Fund Account No. 7207810-09597.

Attachments - Location Map

Recommended Action: MOVE to award the bid and contract for the Virginia Street Sewer Replacement Project to A. Miner Contracting, Inc., in an amount not to exceed \$1,087,737.00, requiring Davis-Bacon wages.

Virginia Street Replacement Project

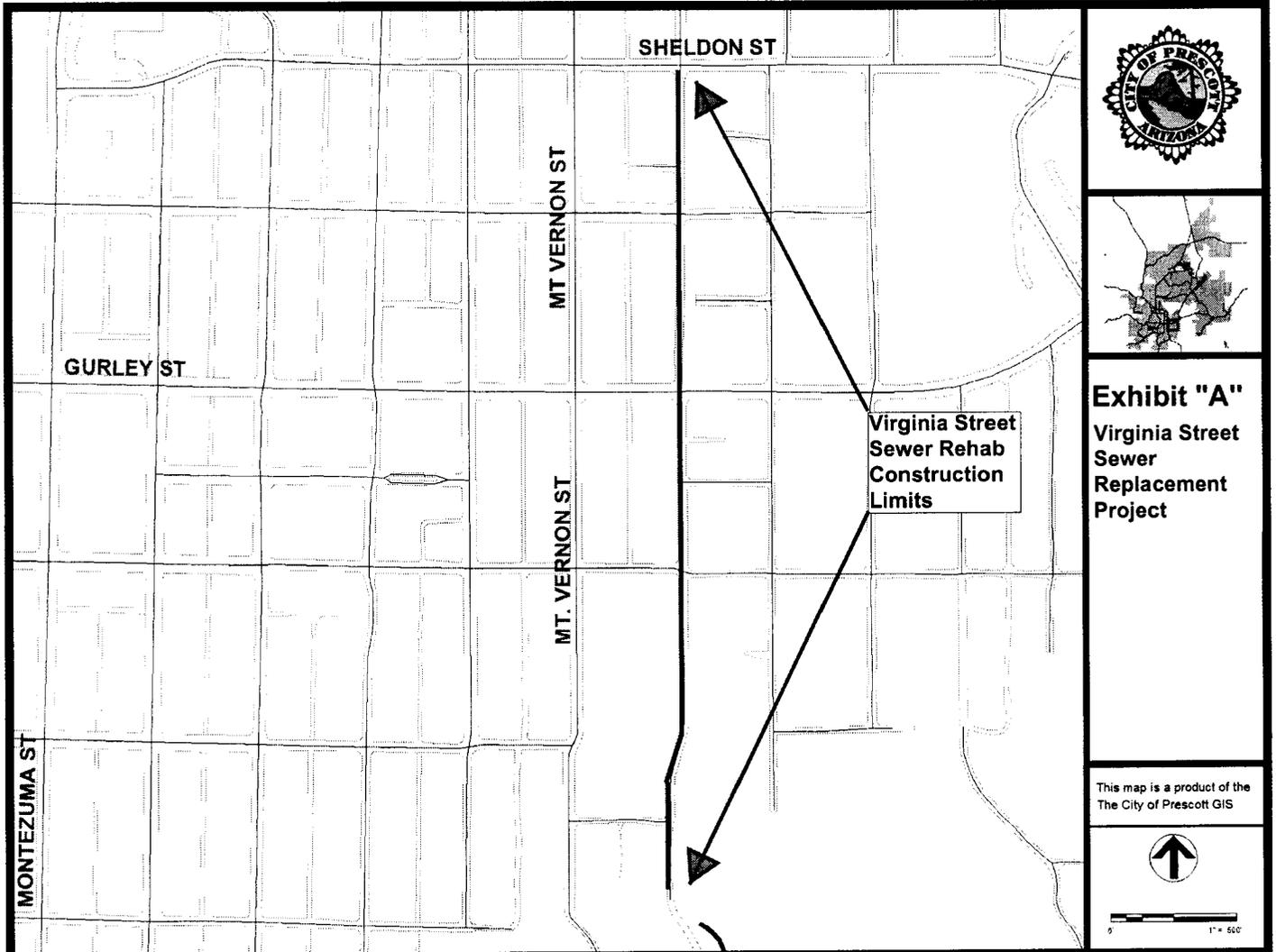


Exhibit "A"
Virginia Street
Sewer
Replacement
Project

This map is a product of the
The City of Prescott GIS



0 1" = 650'

COUNCIL AGENDA MEMO – October 12, 2010
DEPARTMENT: Public Works
AGENDA ITEM: Award of bid and contract for Zone 24 Reservoir Replacement Project to CLM Earthmovers, LLC., in an amount not to exceed \$1,019,477.50.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>SNorwood</i>	<i>10/06/10</i>

Item Summary

This item is to approve a construction contract with CLM Earthmovers, LLC, Prescott, Arizona for demolition and removal of the existing 0.1 Million Gallon steel tank and construction of a 0.5 Million Gallon welded steel or glass-fused-to-steel bolted storage tank. The project will upgrade service and increase storage capacity within the Zone 24 pressure area.

Background

It has been determined through the City of Prescott Water System Model and field observations that additional storage and water pressure is needed within Pressure Zones 24 and 27 of the water distribution area located in the southwest portion of the City, south of Thumb Butte Road, and east of the Prescott National Forest. Insufficient capacity is evident within the zones during periods of peak demand demonstrating an inadequacy in the existing facilities. The planned improvements will increase storage volume, enhance pressure, fire flows, and overall system performance within the two zones. An additional project is currently under design for the Zone 27 Pressure Zone including reconstruction of the Zone 27 Pump Station and upsizing of the Water Main from Josephine Street and West Gurley Street west to Thumb Butte Road and Sherwood Drive. Additionally, an engineering services contract for a new Zone 27 reservoir to replace the current Zone 27 reservoir is in development for future consideration by Council.

Qwest, Arizona Public Service (APS) and Cable One were contacted regarding utility conflicts at the water line tie in location on Lookout Lane. All three wire utility companies joined in and relocated their facilities known to be in conflict with the planned improvements. Unisource Gas has indicated they have no facilities in conflict with the project.

There have been two public presentations on the project (April 16, 2009 at the Yavapai Community College and on February 16, 2010 at the Prescott Library). The reservoir site is located in an area surrounded by Open Space associated with Thumb Butte Estates (Assessor Parcel Number 111-05-088) and open space land purchased by the City (Assessor Parcel Number 111-04-076K). Engineering was completed to reduce

Agenda Item: Award of bid and contract for Zone 24 Reservoir Replacement Project to CLM Earthmovers, LLC., in an amount not to exceed \$1,019,477.50.

the amount of cut and fill associated with grading for the tank to assure rock outcrops, larger trees, and vegetation were preserved in the design to provide natural barriers to reduce visibility of the reservoir.

Glass-Fused Bolted Steel and Welded Steel

The project was bid to include alternates for both Glass-Fused Bolted Steel and Welded Steel tanks to obtain a cost comparison between the two tank types.

The glass-fused-to-steel tank panels require no painting or interior coating for the life of the tank, are impermeable to liquids and vapors, control undercutting caused by corrosion and are resistant to abrasions, which greatly reduces maintenance costs over the life of the tank. The tank panels come in a baked on enamel forest green color which the glass coating is mechanically fused to the steel at a 1500 degrees temperature process to both the interior and exterior. The manufacture guarantees zero free holiday, which means that the panels will be free of any coating imperfections. Bolts and seams would need to be inspected and may need some maintenance in future years. Attached is a Life Cycle Cost Comparison between the two tank types based on regular maintenance needs for both tanks. The life cycle comparison details a cost savings of \$126,502 over a 60 year period for the glass-fused-to-steel bolted tank.

Recently the City has received as bid to recoat the Frontier Village Tank (a 500,000 gallon tank) at a cost \$97,000. The tank is approximately 12 years old.

Additionally staff did several site visits and contacted 7 communities, who combined, own over 40 glass-fused-to-steel tanks that age from 15 to 30 years and all conversations were positive regarding the tanks performance and low maintenance requirements (see attached Glass-Fused Tank References).

The final benefit for the glass-fused-to-steel tank is that the tank can be constructed in a shorter timeframe in a relatively confined space, which works well for this particular site. Since this particular tank is one of the smaller proposed tanks for the city water system, and is well hidden due to natural rock outcrops and vegetation, staff recommends awarding the contract to CLM Earthmovers for the glass-fused-to-steel bolted tank. The welded steel tank could be constructed at less cost (\$35,607.00) initially, considering the bids received, if Council determines to award the bid for the welded steel tank.

Bid Results

On September 16, 2010, four bids were received from four companies for both welded steel and glass-fused-to-steel bolted as follows:

<u>Company</u>	<u>Location</u>	<u>Bid Amount</u> <u>Glass Fused Bolted</u>	<u>Bid Amount</u> <u>Welded Steel</u>
CLM Earthmovers, LLC	Prescott, AZ	\$1,019,477.50	\$ 983,870.50
Asphalt Paving & Sup, Inc.	Prescott Valley, AZ	\$1,038,510.80	\$1,047,510.80

Agenda Item: Award of bid and contract for Zone 24 Reservoir Replacement Project to CLM Earthmovers, LLC., in an amount not to exceed \$1,019,477.50.

Fann Contracting, Inc.	Prescott, AZ	\$1,100,536.08	\$1,019,912.00
City-Wide Contracting, LLC	Phoenix, AZ	\$1,384,910.00	\$1,275,910.00
Engineer's Estimate		\$1,155,381.00	\$1,236,648.00

Written confirmation of bid has been received from low bidder CLM Earthmovers, LLC. Verification of the company's license, bonding, references, and performance of past municipal projects has been satisfactory.

Project Schedule

Commence Construction	November, 2010
Completion	April, 2011

Budget

FY11 funding was budgeted and is available for the Zone 24 Water Replacement Reservoir Project in the Water Fund Account Nos. 7007810-8418-09525 and 7157820-8418-09525. Funding is available for either tank option.

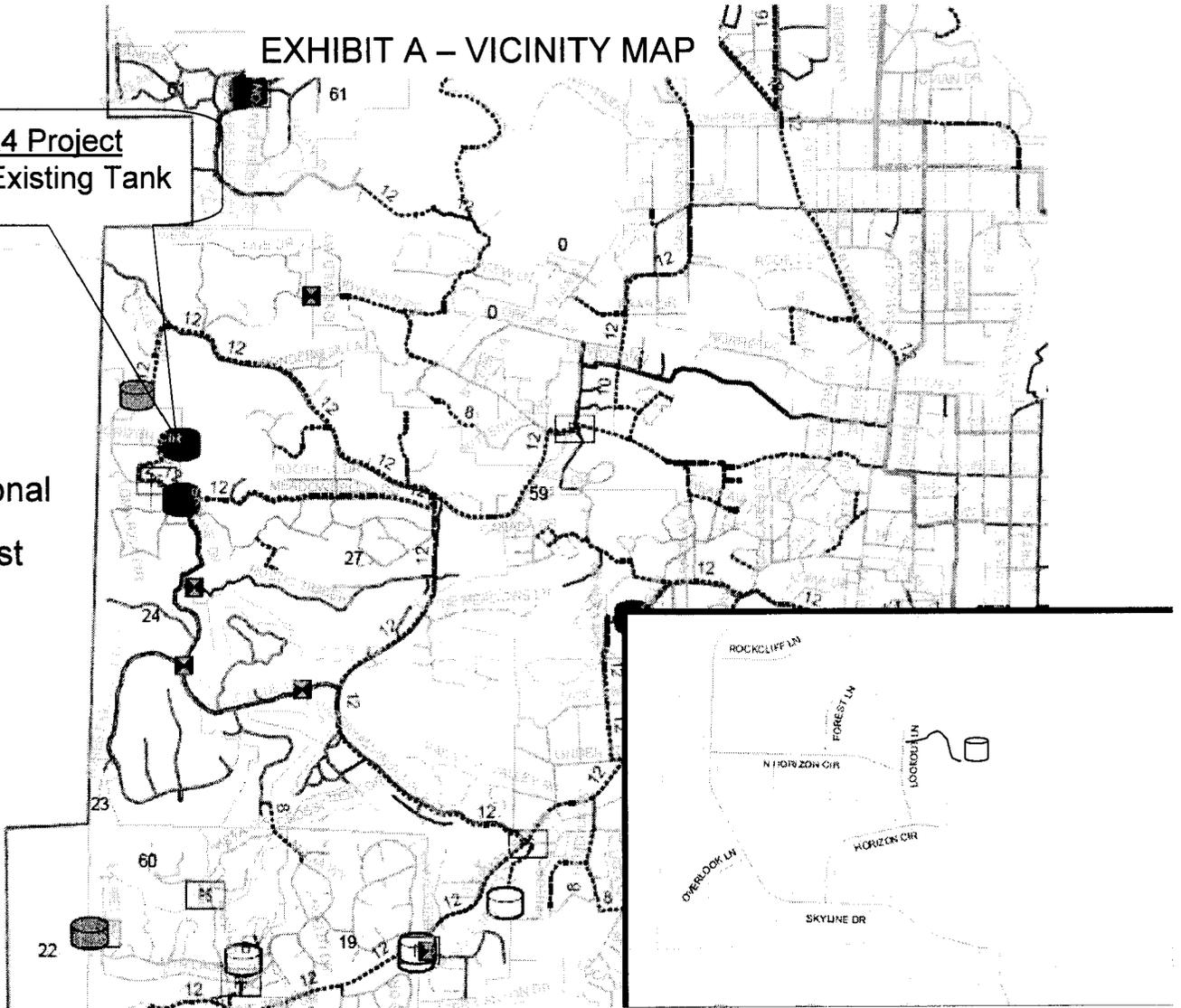
- Attachments**
- Exhibit "A" Location Map
 - Exhibit "B" Glass-Fused Tank References
 - Life Cycle Cost Comparison

Recommended Action: MOVE to Award the bid and contract for Zone 24 Reservoir Replacement Project to CLM Earthmovers, LLC., in an amount not to exceed \$1,019,477.50.

EXHIBIT A – VICINITY MAP

Zone 24 Project
Replace Existing Tank

National
Forest





Public Works Department
Capital Project Management

433 N. Virginia Street
Prescott AZ 86301
928-777-1130

**EXHIBIT B
SUMMARY OF BOLTED GLASS FUSSED STEEL TANK CALLS**

Owner	Contact	Phone	Age	Size (Gallon)	Notes
City of Starbuck, MN	Gary Koos	320-424-1675	30 and 15	276,000	No maintenance to-date, very happy with the tanks.
Tohono O'Odham Utility Authority	David Saddler	520-383-5830	20+ 2 Dozen Tanks	10,000 – 1.3 Million	No maintenance to date other than cleaning, tanks have been shot – easy repair. Great service from manufacture. Nothing bad to say.
Gila Cliff Dwelling National Monument	Steve Riley	575-536-9461	22	60,000	No maintenance to date, other than cleaning.
Rio Verde Utilities	Michael Klemiski	480-471-2728	16	740,000	No maintenance to-date other than cleaning the tank.
City of Dennison, MN	Paul Gillispie	507-645-9789	29	115,000	No maintenance to seams; tank was shot and repaired. Only drained to clean.
Brooklings-Deuel Rural Water System, SD	Gene Wilts	605-794-4201	29 – 3 Tanks	200,000	No maintenance to the seams. Trouble with the door on one and added anodes. Only drain to clean once every 3 years.
WEB Rule Water Systems	Mark Lindseth	605-229-4647	25 – 8 Tanks	100,000 – 500,000	One tank had a seam with a little bit of weeping. Aquastore fixed the problem at a reasonable cost (happened 20 years after the tank was built). Minimal maintenance costs. Would buy a glass-steel fussed tank again as opposed to welded steel.

Life Cycle Cost Estimator - Zone 24 Reservoir

Tank Details	Bolted	Welded
Diameter, ft	62	62
Height, ft	28	28
Nominal Capacity, gallons	632,356	632,356
Interior Maintenance		
Recoating (welded)		
Frequency, years	-	15
Current Cost, \$/SF	-	\$6.50
Resealing Joints/Touch up (bolted)		
Frequency, years	25	-
Current Cost, \$/SF	\$3.00	-
% of Sealer to be replaced	100%	-
Recoating Rafters and Center Column (both tanks)		
Frequency, years	20	15
Current Cost, \$/SF	\$8.00	\$6.50
Exterior Maintenance		
Recoating (welded)		
Frequency, years	-	15
Current Cost, \$/SF	-	\$6.00
Resealing Joints/Touch up (bolted)		
Frequency, years	25	-
Current Cost, \$/SF	\$3.00	-
% of Sealer to be replaced	50%	-
Recoating Appurtenances (both tanks)		
Frequency, years	15	15
Current Cost, \$/SF	\$8.00	\$6.00
Pressure Cleaning Tank, to Prevent Bolt Streaks		
Current Cost, Lump Sum	\$500.00	-
Frequency, years	10	-
Surface Area		
Interior Surface Area, SF	11491.95	11491.95
Exterior Surface Area, SF	8472.88	8472.88
Estimated Surface Area of Rafter and Center Column	5103	5103
Estimated Surface Area of Exterior Appurtenances (eg. Ladder, access hatch, railings, anti-climb door)	460	460
Economic Data		
Inflation Rate, %	2.50%	
Discount Rate, %	3.00%	
Life cycle of tank, years	60	

Bolted Tank			
Maintenance Item	Current Cost	Future Cost	Net Present Cost
Resealing Interior Joints/Touch up			
25 Years	\$34,475.84	\$63,916.28	\$30,526.77
50 Years	\$34,475.84	\$118,497.20	\$27,030.05
Recoating Rafters and Center Column			
20 Years	\$40,824.00	\$66,894.88	\$37,038.07
40 Years	\$40,824.00	\$109,615.05	\$33,603.24
Resealing Exterior Joints/Touch up			
25 Years	\$12,709.31	\$23,562.36	\$11,253.51
50 Years	\$12,709.31	\$43,683.29	\$9,964.47
Recoating Appurtenances			
15 Years	\$3,680.00	\$5,329.74	\$3,420.96
30 Years	\$3,680.00	\$7,719.05	\$3,180.15
45 Years	\$3,680.00	\$11,179.48	\$2,956.29
Pressure Cleaning Tank, to Prevent Bolt Streaks	\$500.00	\$12,435.99	\$4,767.02
TOTAL MAINTENANCE COSTS	\$187,558.30	\$462,833.31	\$163,740.52

Welded Tank			
Maintenance Item	Current Cost	Future Cost	Net Present Cost
Recoating Interior			
20 Years	\$74,697.65	\$122,400.79	\$67,770.35
40 Years	\$74,697.65	\$200,567.95	\$61,485.48
Recoating Rafters and Center Column			
20 Years	\$33,169.50	\$54,352.09	\$30,093.43
40 Years	\$33,169.50	\$89,062.22	\$27,302.63
Recoating Exterior			
15 Years	\$50,837.25	\$73,627.50	\$47,258.69
30 Years	\$50,837.25	\$106,634.57	\$43,932.03
45 Years	\$50,837.25	\$154,438.66	\$40,839.55
Recoating Appurtenances			
15 Years	\$2,760.00	\$3,997.30	\$2,565.72
30 Years	\$2,760.00	\$5,789.29	\$2,385.11
45 Years	\$2,760.00	\$8,384.61	\$2,217.22
TOTAL MAINTENANCE COSTS	\$376,526.05	\$819,254.99	\$325,850.21

Capital Cost of Bolted Steel Tank: \$1,019,477.50

Capital Cost of Welded Steel Tank: \$983,870.50

TOTAL NET PRESENT COST OF BOLTED TANK: \$1,183,218.02

TOTAL NET PRESENT COST OF WELDED TANK: \$1,309,720.71

Difference (60 Year Savings with Bolted)	\$126,502.69
-------------------------------------------------	---------------------

COUNCIL AGENDA MEMO – October 12, 2010
DEPARTMENT: Public Works
AGENDA ITEM: Resolution No. 4048-1118 - Accepting U.S. Department of Homeland Security, Cooperating Technical Partners Grant for the Federal Emergency Management Agency (FEMA) Flood Insurance Study updates.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	<i>10/04/10</i>

Item Summary

Approval of this item will accept grant funding in FY 11, in the amount of \$350,000.00 from the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) for an updated determination and mapping of the 100-yr. floodplain for segments of Granite Creek, Willow Creek, Willow Creek Tributary, and the Willow Creek Reservoir Tributary. There are no matching funds required from the City.

Background

In FY10 the City completed the second phase of our program to update area FEMA floodplain maps. Prior to this undertaking, the existing flood studies were developed in the late 1970's to early 1980's and are outdated.

The U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), as part of our Community Technical Partnership, approved a \$350,000.00 grant to fund the next project phase which includes updating respective FEMA flood studies for segments of Granite Creek, Willow Creek, Willow Creek Tributary, and the Willow Creek Reservoir Tributary. These studies and additional mapping are consistent with the City's Master Drainage Plan to update all existing FEMA Flood Insurance studies within Prescott.

Benefits of having accurate floodplain determinations include the assurance that structures built within the floodplain, but outside the floodway, are built at the correct elevation; and also provide an accurate stormwater design basis for adjacent street drainage/construction projects.

Attachments

- Resolution
- Study Limits Map

Recommended Action: MOVE to adopt Resolution No. 4048-1118.

RESOLUTION NO. 4048-1118

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, ACCEPTING U.S. DEPARTMENT OF HOMELAND SECURITY, COOPERATING TECHNICAL PARTNERS GRANT, IN THE AMOUNT OF \$350,000 FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE MAP UPDATES AND AUTHORIZING THE EXECUTION OF ANY AND ALL DOCUMENTS TO IMPLEMENT SAME

RECITALS:

WHEREAS, on March 4, 2009, the City of Prescott entered into a Cooperating Technical Partners Partnership Agreement between City of Prescott, Arizona Department of Water Resources and the Federal Emergency Management Agency to create and maintain accurate, up-to-date flood hazard data for the City of Prescott; and

WHEREAS, on September 15, 2010, the Public Works Department staff submitted an application to the U.S. Department of Homeland Security seeking a Cooperating Technical Partners Grant in order to update the Federal Emergency Management Agency (FEMA) maps for the City of Prescott; and

WHEREAS, on September 16, 2010, the Public Works Department received Obligor Documents for Award and Agreement Articles for the Cooperating Technical Partners Grant;

WHEREAS, there are no requirements for local matching funds associated with this grant award. Therefore, there is no fiscal impact to the City.

ENACTMENTS:

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

Section 1. That the City of Prescott hereby accepts the grant funds from the U.S. Department of Homeland Security in the amount of \$350,000 for the FEMA Flood Insurance Map Updates.

Section 2. That the Mayor and staff are hereby authorized to execute any and all documents to effectuate the foregoing.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of October, 2010.

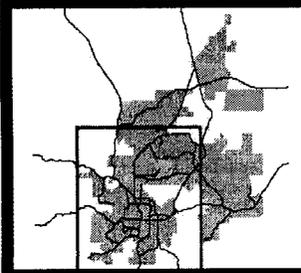
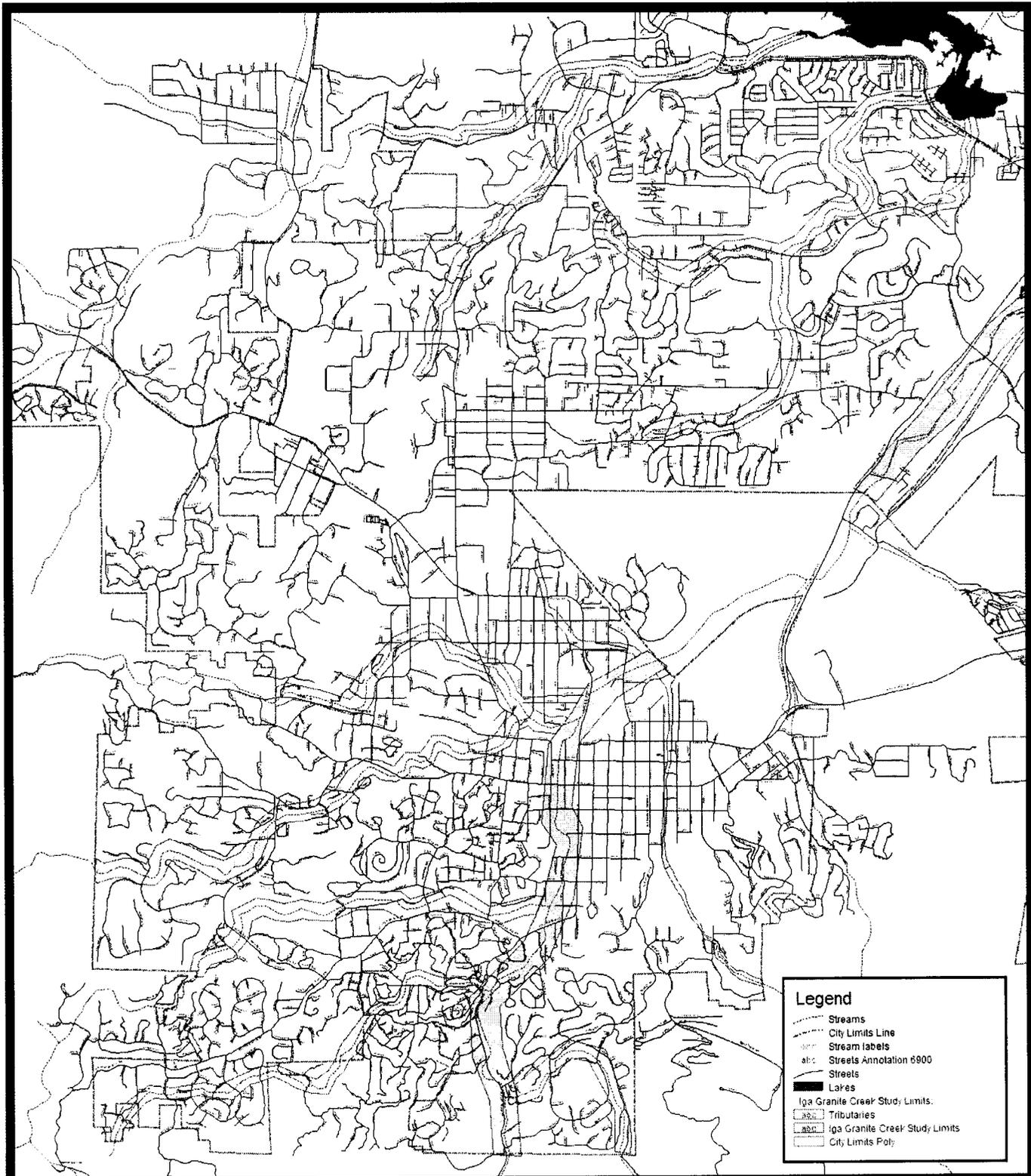
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE, City Clerk

GARY D KIDD, City Attorney



TRIBUTARIES STUDY LIMITS

This map is a product of the
The City of Prescott GIS



COUNCIL AGENDA MEMO – October 12, 2010
DEPARTMENT: Public Works
AGENDA ITEM: Adoption of Ordinance No. 4762-1113 authorizing purchase and acceptance of right-of-way for public use and utility easements for the Zone 19 Water transmission main.

Approved By:	Date:
Department Head: Mark Nietupski	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	10/06/10

Item Summary

Approval of this item will acquire right-of-way for public use and utility easements for the Zone 19 water transmission main. The easements and right-of-way to be acquired are along Wickwood Lane located west of Copper Basin Road and Sheriffs Posse Trail.

Background

Per the City's Water Distribution Model, the Zone 19 area is in need of additional water storage to enhance system capacity and water pressure for fire flows. When engineering services are procured in the near future, the project will provide a new storage facility, extend the water distribution system to the reservoir, and upgrade the pump station serving the area. For the past year, staff has been working with the neighborhood to acquire property for the new Zone 19 One Million Gallon reservoir and easements to the proposed facility. A public meeting was held on May 20, 2010, at Trinity Presbyterian Church where staff outlined the future reservoir and easement locations for the project. No comments or objections were raised in the meeting regarding the future tank location or easements needed for the project. Questions from citizens in the meeting focused on future water service availability for the area.

Exhibit "A" (attached) provides a summary of the easements to be acquired involving five (5) parcels collectively valued in the amount of \$38,413.32. Upon approval of the ordinance and associated closings, staff will work with Community Development and the property owners (Balentine's) of APNs 108-21-230A and 108-21-231 on a lot split detailing the new legal access and parcel for the future reservoir site.

Once the lot split has been completed, staff will prepare an Ordinance for the Agreement for Sale of Real Property to acquire the parcel for the reservoir which will be presented at a future City Council meeting. The Balentines have confirmed their agreement with the offered price (the appraised value minus the cost of easement acquisitions above).

AGENDA ITEM: Adoption of Ordinance No. 4762-1113 authorizing purchase and acceptance of right-of-way for public use and utility easements for the Zone 19 water transmission main.

Budget

Funding for the Zone 19 Water transmission main easement acquisition is available from the Water Fund: (Account #700 7810 8930 09550). The total amount required for the acquisitions listed on Exhibit "A" is \$38,413.32 plus closing costs estimated between \$200 and \$1000 each. The actual closing costs will determine the final amount for each transaction.

The original Agreements for Sale of Real Property are located in the City Clerk's office.

Attachments

- Exhibit "A" Easement Offer Analysis
- Ordinance No. 4762-1113
- Draft Record of Survey Map – For Lot Split
- Summary of Appraisal Report

Recommended Action: MOVE to adopt Ordinance No. 4762-1113.

ORDINANCE NO. 4762-1113

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF EASEMENTS FROM DONALD H. CRAMER, BERNARD J. AND BARBARA T. SHERIDAN, WATSON FAMILY TRUST, ROSS M. AND ANN MELLENCAMP, AND DANIEL R. AND JANET S. CONRAD FOR THE CONSTRUCTION OF THE ZONE 19 12-INCH TRANSMISSION MAIN, AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SAID PURCHASES

RECITALS:

WHEREAS, the City Council has determined that certain easements are needed by the City for the construction of the Zone 19 Transmission Main; and

WHEREAS, the proposed purchase prices of the following described easements are deemed to be fair and equitable and will benefit the City of Prescott; and

WHEREAS, the purchase of these certain easements are for the public's health, safety and welfare.

ENACTMENTS:

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

SECTION 1. THAT the City Council hereby accepts the offer to purchase a certain easement more particularly described in a certain Agreement for Sale of Real Property dated July 19, 2010, from Donald H. Cramer, which consist of: (1) Public Right-of-Way and Utility Easement as described in Exhibits A and B, located in APN 108-21-007 (2007, 2008), and the City agrees to purchase and accept said easement from Donald H. Cramer, pursuant to the terms and conditions as set forth therein, for the purchase price of \$7,086.07 plus closing costs.

SECTION 2. THAT the City Council hereby accepts the offer to purchase a certain easement more particularly described in a certain Agreement for Sale of Real Property dated July 21, 2010, from Bernard J. and Barbara T. Sheridan, which consists of: (1) Public Right-of-Way and Utility Easement as described in Exhibits A and B, located in APN 108-21-007L (2007, 2008), and the City agrees to purchase said easement from Bernard J. and Barbara T. Sheridan pursuant to the terms and conditions as set forth therein, for the purchase price of \$4,854.80 plus closing costs.

SECTION 3. THAT the City Council hereby accepts the offer to purchase a certain easement more particularly described in a certain Agreement for Sale of Real Property

dated July 23, 2010, from Watson Family Trust, which consists of: (1) Public Right-of-Way and Utility Easement as described in Exhibits A and B, located in APN 108-21-007U (2007, 2008), and the City agrees to purchase said easement from Watson Family Trust pursuant to the terms and conditions as set forth therein, for the purchase price of \$5,670.38 plus closing costs.

SECTION 4. THAT the City Council hereby accepts the offer to purchase a certain easement more particularly described in a certain Agreement for Sale of Real Property dated July 21, 2010, from Ross M. and Ann Mellencamp, which consists of: (1) Public Right-of-Way and Utility Easement as described in Exhibits A and B, located in APN 108-21-007V (2007, 2008), and the City agrees to purchase said easement from Ross M. and Ann Mellencamp pursuant to the terms and conditions as set forth therein, for the purchase price of \$16,610.03 plus closing costs.

SECTION 5. THAT the City Council hereby accepts the offer to purchase a certain easement more particularly described in a certain Agreement for Sale of Real Property dated August 9, 2010, from Daniel R. and Janet S. Conrad, which consists of: (1) Public Right-of-Way and Utility Easement as described in Exhibits A and B, located in APN 108-21-007W (2007, 2008), and the City agrees to purchase said easement from Daniel R. and Janet S. Conrad pursuant to the terms and conditions as set forth therein, for the purchase price of \$1,592.06 plus closing costs.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

Exhibit A
Zone 19 Water Utility Improvement Project - Easement Offer Analysis

Parcel Number	Owner Name	Area for Easement (FT ²)	Cost Per FT ²	Cost	Well
108-21-007	Donald Cramer Watson Family Trust (Oliver)	6161.8	\$1.15	\$7,086.07	Vacant Lot
108-21-007U		6061.2	\$1.15	\$6,970.38	Yes, went dry 10 years ago, now hauls water
108-21-007V	Ross and Ann Mellencamp	9591.4	\$1.15/\$2.30	\$16,610.03	Existing house, hauls water
108-21-007L	Sheridan Family Trust (BJ)	5352	\$1.15	\$6,154.80	Well feeds residence
108-21-007W	Daniel and Janet Conrad	152.2	\$2.30	\$1,592.06	Existing house, hauls water
Total		27318.6		\$38,413.34	

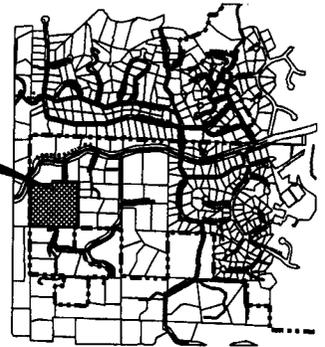
Notes:

An appraisal was completed for both a new ingress egress and utility easement to the proposed tank site off Wickwood Lane at a determined value of \$2.30 per square foot and ingress egress and utility easement over the existing Wickwood Lane private easement at a determined value of \$1.15 per square foot.

An additional cost was agreed upon for APNs 108-21-007U (Watson) and 108-21-007L (Sheridan) to add a stub out and water meter yoke at \$1300 each, which is detailed in the Agreement for Sale.

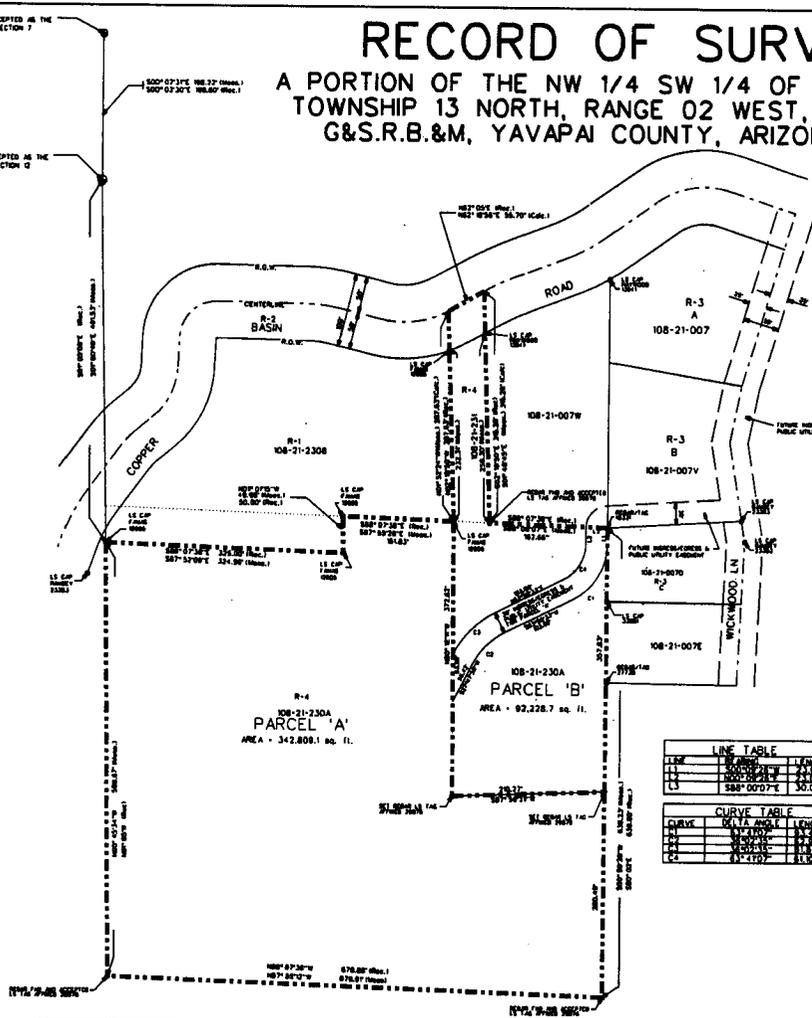
RECORD OF SURVEY

A PORTION OF THE NW 1/4 SW 1/4 OF SECTION 7,
TOWNSHIP 13 NORTH, RANGE 02 WEST, OF THE
G&S.R.B.&M, YAVAPAI COUNTY, ARIZONA



LOCATION MAP

SURVEY LOCATION



APPROVALS

APPROVED BY THE CITY OF PRESCOTT COMMUNITY DEVELOPMENT DIRECTOR ON
THIS _____ DAY OF _____ 20____

COMMUNITY DEVELOPMENT DIRECTOR _____

APPROVED BY THE CITY OF PRESCOTT PUBLIC WORKS DIRECTOR ON
THIS _____ DAY OF _____ 20____

PUBLIC WORKS DIRECTOR _____

REFERENCE DOCUMENTS

- R-1 BOOK 21 OF LAND SURVEYS PAGE 68
- R-2 BOOK 18 OF LAND SURVEYS PAGE 20-38
- R-3 BOOK 188 PAGE 34 OF OFFICIAL RECORDS
- R-4 BOOK 37 OF LAND SURVEYS PAGE 08
- R-4 BOOK 38 OF OFFICIAL RECORDS PAGE 366

NOTE:

THAT ALL ELEMENTS OF RECORD MAY NOT BE SHOWN.

BASIS OF BEARING

DETERMINED BY OPS USING CITY OF PRESCOTT "GRID" BASE

OWNERS:

AS OF AUGUST 30, 2010 THE YAVAPAI COUNTY ASSESSOR'S OFFICE LISTS THE OWNERS OF PARCEL NUMBER 108-21-230A AND 108-21-231 AS SHOWN SURVEYED HEREON AS HOWARD H. BALCHIVE AND DEBORAH A. BALCHIVE AS TRUSTEES OF THE HOWARD H. BALCHIVE AND DEBORAH A. BALCHIVE FAMILY TRUST.

CERTIFICATION

JON A. JARRIKEN DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA THAT THIS PLAT REPRESENTS A SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF SEPTEMBER 2008 THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT ALL THE INSTRUMENTS ERECT OF THE DATE HEREOF ARE SUBJECT TO EMBLEM RETRACTION OF THE SURVEY.

JON A. JARRIKEN AZ. R.L.S. 20876

LINE TABLE

LINE	BEARING	LENGTH
L1	S89°07'30"W	27.00
L2	S87°52'00"E	24.50
L3	S88°00'00"E	30.00

CURVE TABLE

CHUNK	DELTA ANGLE	LENGTH	RADIUS
C1	89.0730	89.0730	27.00
C2	87.5200	87.5200	24.50
C3	88.0000	88.0000	30.00

**SUMMARY APPRAISAL
REPORT
ON THE
BALENTINE PROPERTY
Prescott AZ**

Date of Value
September 30, 2009

Date of Report
October 26, 2009

Report Number
09-009

PREPARED FOR

Mr. Mark J. Nietupski, Public Works Director
City of Prescott Public Works
433 North Virginia Street
Prescott AZ 86302

PREPARED BY

BERGTHOLD AG SERVICES
PO BOX 12635
PRESCOTT AZ 86304
basglb@cableone.net





Bergthold Ag Services
P.O. Box 12635
Prescott, AZ 86304
Email: basglb@cableone.net

October 26, 2009

Mr. Mark J. Nietupski, Public Works Director
City of Prescott Public Works
433 North Virginia Street
Prescott AZ 86302

Re: Summary Appraisal Report on approximately 1.79 acres of open land located in Prescott, Arizona south of Copper Basin Road, west of Wickwood Lane. Report Number 09-009.

Dear Mr. Nietupski:

In accordance with your request and authorization, I have completed my investigation and appraisal analysis of the property owned by John and Vicki Balentine. The property is identified as a 1.79 acre portion of APN 108-21-230A; according to information provide the appraiser.

The appraisal assignment is to determine the "as is" Market Value of the Balentine property as of September 30, 2009, which was also the date of inspection. I was also asked for the value of APN 108-21-231, referred to as "the chimney" parcel, as well as the per square foot value of the potential easement across APN 108-21-007V owned by Ross Mellencamp. The appraiser hereby acknowledges that he has the appropriate education and experience to complete this assignment in a competent manner.

The following value conclusion is subject to certain assumptions and limiting conditions set forth in the body of this report. My conclusion of value is as follows:

Market Value of 1.79 acres (Balentine), \$179,000
Market Value of 0.34 acres, \$14,810
Market Value of potential easement (Mellencamp), \$2.30 per square foot

This letter itself is not the appraisal, but merely serves to transmit the appraisal report that follows. The subsequent pages describe the subject property, the information upon which the values have been made, an analysis of the data and the valuations concluded. This report consists of 33 consecutively numbered pages, including the addendum cover page.

Respectfully submitted,

Gordon L. Bergthold
Certified General Real Estate Appraiser
Arizona Certificate Number 31210

**BAS**

Bergthold Ag Services
P.O. Box 12635
Prescott, AZ 86304
Email: basglb@cablone.net

March 12, 2010

Mr. Jeffrey M. Low
Capital Projects Manager
City of Prescott Public Works
433 North Virginia Street
Prescott AZ 86302

Re: Appraisal addendum to Ballentine/Mellencamp report dated October 26, 2009.
Report 09-009

Dear Mr. Low:

In accordance with your request and authorization, I have completed my investigation and analysis of the Wickwood Lane easement serving property owned by Ross Mellencamp. The property is identified as a 4,739.3 square foot portion of an existing road easement that is outlined in "Exhibit 'B' on the following page. That portion of the "existing easement" is the focus of this study.

The assignment is to determine the Market Value of the existing easement that serves the Mellencamp parcel. Exhibit 'A' is the entire easement parcel including that 4,852.1 square feet to be purchased for access to the Balentine property and the proposed tank site for the City of Prescott.

It is assumed that this is an Easement of Access. According to Black's Law Dictionary, an Easement of Access is defined as, "Right of ingress and egress to and from the premises of a lot owner to a street appurtenant to the land of the lot owner". Establishing this public right of way will provide access for the City of Prescott to service the proposed tank installation planned for the neighborhood.

The easement was valued by a combination of techniques, but primarily by using the previous appraisal of the new easement to be acquired from Mellencamp at \$2.30 per square foot and determining a reasonable percentage of that figure for the existing easement of 4,739.3 square feet.

The State Land Department Policy Memo No. P97-1, issued 04/01/97 and amended 08/25/99 offers the following guidelines for certain Right of Way uses.

- Above ground distribution lines (gas, electric, communications, water) within existing road r/w, 50% of land value.
- Underground distribution lines (gas, electric, communications, water) within existing road r/w, 40% of land value.

The guidelines address rights of way over or under existing rights of way. An example of the summary of right of way formula is: (Value per acre) x (acres) x (minimum percentage factor).

It is my opinion that the right of access, that is egress and ingress, is valued by applying the value of the fee simple or \$2.30 per square foot times the 4,739.3 square feet times 50% ($\$2.30 \times 4,739.2 \times .50$). Using this formula the value of the existing easement is \$5,450.

The following value conclusion is subject to certain assumptions and limiting conditions set forth in the body of the original appraisal report. My conclusion of value of the public right of way easement is as follows:

4,739.2 square feet of land at \$1.15 per square foot, \$5,450

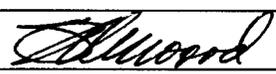
FIVE THOUSAND FOUR HUNDRED FIFTY DOLLARS

Respectfully submitted,



Gordon L. Bergthold
Certified General Real Estate Appraiser
Arizona Certificate Number 31210

COUNCIL AGENDA MEMO – October 12, 2010	
DEPARTMENT:	Public Works
AGENDA ITEM:	Adoption of Ordinance No. 4765-1116 authorizing purchase of real property north of the Airport from James Deep Well Ranches #1, L.L.C., for siting and construction of a new water production / recovery well

Approved By:		Date:
Department Head:	Mark Nietupski	
Finance Director:	Mark Woodfill	
City Manager:	Steve Norwood 	10/06/10

Item Summary

Approval of this item will acquire real property necessary for development of a new water production / recovery well north of the Airport. The well, required by the Arizona Department of Water Resources (ADWR) to be in proximity to the Airport Recharge Facility, will provide a new point of supply for the City's water system. The purchase price for the property of approximately 2.07 acres is \$82,800.00.

Background

Prescott currently utilizes the Chino Valley well field as its primary means of water supply. As an integral component of water resource management, the City also owns and operates a recharge/recovery facility (for reclaimed and surface water sources) located adjacent to the Airport Water Reclamation Facility.

In 2005 ADWR granted the City an increase in its Designation of Assured Water Supply. In conjunction with the increase, that agency requested augmentation of well capacity within a one mile proximity of the Recharge Facility. Development of this new well in the Airport area will implement the ADWR requirement, shifting an increment of pumping from the Chino Valley well field but not resulting in a net increase in the volume authorized to be pumped.

Selection of the new well site, on the property proposed to be purchased, was made on the basis of an analysis by Carollo Engineering and Hydro Systems, Inc. (HSI):

- An evaluation of existing wells in the Airport Zone was conducted by researching the ADWR database. The information was utilized to physically locate the wells and determine the operational status and current ownership. All documented and undocumented wells were located with GPS and photographed.
- An Expanded Well Impact Analysis was performed by HSI. The analysis evaluated the impact of the planned new well on other existing wells in the area. The locations of least impact were identified to determine the most desirable site.

AGENDA ITEM: Adoption of Ordinance No. 4765-1116 authorizing purchase of real property north of the Airport from James Deep Well Ranches #1, L.L.C., for siting and construction of a new water production / recovery well

- The most desirable drilling location was determined to be in the area of this recommended purchase. In order to analyze the subsurface geologic structural profiles, Controlled Source Audio-frequency Magnetotellurics Technology (CSAMT) was utilized by HSI. CSAMT is a non-intrusive surface geophysical method that can be employed to develop subsurface profiles to depths exceeding 2,500 feet. Geophysicists and hydrogeologists analyzed the data and profiles produced to determine the most favorable drilling sites.

When completed, the new well will be connected to an existing 12" City water main located approximately 300' feet from the site.

The purchase price of \$82,800.00 is based on an appraisal prepared by Russell Briggs, State Certified Appraiser. The Agreement for Sale of Real Property provides that a 12-inch water main stub out will be made available to the seller for delivery of potable water to Deep Well Ranch. A Water Service Agreement will be required in the future to access this water supply. There is no demand for service at this time.

Budget

FY 11 funding for this land acquisition is available in the Water Fund (Account Nos. 7007810-09552 and 7157810-09552).

Attachments - Ordinance No. 4765-1116
 - Agreement for Sale of Real Property with exhibits

Recommended Action: MOVE to adopt Ordinance No. 4765-1116.

ORDINANCE NO. 4765-1116

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF REAL PROPERTY BELONGING TO JAMES DEEP WELL RANCHES #1, L.L.C., FOR THE SITING AND CONSTRUCTION OF A NEW AIRPORT ZONE PRODUCTION / RECOVERY WELL, AND AUTHORIZING THE MAYOR AND CITY STAFF TO TAKE ALL NECESSARY STEPS TO EFFECTUATE SAID PURCHASE

RECITALS:

WHEREAS, the City Council has determined that certain real property is needed by the City for a new airport zone production / recovery well; and

WHEREAS, the proposed purchase price of the following described property is deemed to be fair and equitable and will benefit the City of Prescott; and

WHEREAS, James Deep Well Ranches #1, L.L.C., the owner of certain real property, agrees to transfer title to the City in exchange for the purchase price, closing costs to be paid by the City, and a 12-inch water main stub out to be made available for future use of Deep Well Ranch, its successors and /or assigns, with the provision of service from this stub out subject to all standard requirements, procedures, fees, and charges of the City of Prescott as set forth in its City Code and other applicable regulations and/or codes.

ENACTMENTS:

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

SECTION 1. THAT the City Council hereby accepts the offer to purchase certain real property more particularly described in that certain Agreement for Sale of Real Property attached as Exhibit "1" dated October 12, 2010, and agrees to purchase and accept said property from James Deep Well Ranches #1, L.L.C., pursuant to the terms and conditions as set forth therein, for the purchase price of \$82,800.00 plus closing costs.

SECTION 2. THAT the Mayor and staff are directed to execute any and all documents in order to effectuate the foregoing purchase and acceptance of real property, including the payment of closing and other costs associated with the purchase and recordation of the closing documents.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 12th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



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

CITY OF PRESCOTT
AGREEMENT FOR SALE OF REAL PROPERTY

KNOW ALL MEN BY THESE PRESENTS:

THIS AGREEMENT, dated this 12th day of October, 2010, by and between James Deep Well Ranches #1, L.L.C., 8400 North US HWY 89, PRESCOTT, AZ 86301 (hereinafter referred to as the "Seller"), and the CITY OF PRESCOTT, an Arizona municipality (hereinafter referred to as "Buyer").

IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, 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. Seller agrees to sell and convey to the Buyer, and Buyer agrees to purchase from Seller, the real property described in Exhibit "A" and depicted on Exhibits "B" and "C" (hereinafter referred to as the "Property"), and under and pursuant to the terms set forth herein.

2. The total purchase price for the Property is eighty-two thousand eight-hundred dollars and no cents (\$82,800.00), payable in full upon the close of escrow.

3. The Buyer agrees as follows:

A. A 12-inch water main stub out will be made available by the Buyer at Buyer's expense for delivery of potable water to Deep Well Ranch, its successors and/or assigns, with the provision of service from this stub out subject to all standard requirements, procedures, fees, and charges of the City of Prescott as set forth in its City Code and other applicable regulations and/or codes.

B. The Recovery / Production Well planned to be placed on the Property by the Buyer will be constructed in accordance with plans approved by applicable regulatory agencies. Architectural design standards for any well-site structures placed on the Property shall be comparable to those used for other wells developed by the City of Prescott in proximity to residential and commercial areas at the City of Prescott Airport.

C. The Property has been selected as the site of the Recovery / Production Well through a well siting analysis provided to the Seller. The Buyer will cause the well to be designed and permitted in accordance with requirements of the Arizona Department of Water Resources as set forth in Arizona Administrative Code Section R12-15-1302, in such a manner as to not unreasonably interfere with other proximate wells.

Buyer _____

Seller _____

4. The Seller warrants that Seller is the owner of a good and fee simple title to the Property herein sold, free and clear of all liens and encumbrances, subject only to the following:

A. Applicable zoning regulations

B. Utility, drainage, and other easements of record in the records of the Yavapai County Recorder.

C. Mineral rights reserved in the patents to the land.

5. The Seller further agrees to assist the Buyer in obtaining, prior to and as a condition of close of escrow, a Minor Land Division Permit from Yavapai County establishing the Property as a separate parcel.

6. In order to effectuate the terms of this Agreement, Seller and Buyer shall promptly execute and deliver any and all required documents.

7. The closing of escrow shall be at a Title Company designated by the Buyer as soon as practicable after approval of this Agreement by the Prescott City Council (the "Closing Date"). On the Closing Date, Buyer shall make payment as provided in Section 2 of this Agreement to the Seller. The Buyer shall pay all recording and transfer taxes and fees, and any and all other miscellaneous closing costs not hereinbefore specified.

8. The Buyer understands that the foregoing sets forth the entire agreement between the parties and that no agent or representative of Seller has any authority to change or modify this agreement in any manner, or to make any agreement or representation on behalf of the Seller not set forth herein.

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

10. This Agreement is subject to the approval by the Prescott City Council of an Ordinance authorizing the purchase of the Property contemplated herein. The parties acknowledge that this sale is sought by the City as a benefit to the public for public purposes and is a public necessity, and that the sale is being made in lieu of potential condemnation proceedings.

11. All notices to Buyer shall be sent to: City of Prescott, c/o City Clerk, Post Office Box 2059, Prescott, Arizona 86302, with a copy to the Director of Public Works, Post Office Box 2059, Prescott, Arizona 86302.

All notices to the Seller shall be sent to: James Deep Well Ranches #1, L.L.C., 8400 N. US 89, Prescott, AZ 86301, with a copy to Selmer D. Lutey, P.L.L.C, 148 N. Summit Avenue, P.O. Box 591, Prescott, AZ 86302.

Buyer _____

Seller _____

DATED THIS 12th DAY of OCTOBER, 2010.

JAMES DEEP WELL RANCHES #1, L.L.C.,
an Arizona Limited Liability Company

By: _____

Its: _____

State of Arizona)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that she executed it.

[Seal]

Notary Public

My commission expires:

State of Arizona)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that she executed it.

[Seal]

Notary Public

My commission expires:

Buyer _____

Seller _____

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

EXHIBIT "A"

A parcel of land located in the Southwest quarter of Section 24, Township 15 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

(Basis of Bearings for this description is South 89°39'19" East, as measured from an aluminum disk monument at the Southwest corner of said Section 24, to an aluminum disk monument at the Southeast corner of said Section 24, based on City of Prescott datum)

COMMENCING at an aluminum disk monument at the Southwest corner of said Section 24;

THENCE South 89°39'19" East, along the South line of the of said Section 24, a distance of 1765.93 feet to a point on the Northwesterly boundary of the Prescott Municipal Airport / Ernest A. Love Field, as shown on that Results of Survey, recorded in Book 10 Land Surveys, Page 46, Yavapai County Records Office;

THENCE North 41°33'41" East, along said Northwesterly boundary, a distance of 809.07 feet to the TRUE POINT OF BEGINNING;

THENCE North 00°00'00" East, a distance of 451.14 feet;

THENCE South 90°00'00" East, a distance of 400.00 feet to an unmarked rebar on the City of Prescott Corporate Limits line, as described in Ordinance number 628, recorded in Book 285 Official Records, Pages 503-505, Yavapai County Records Office, also being an angle point on said Northwesterly boundary;

THENCE South 41°33'41" West, along said Northwesterly boundary, a distance of 602.93 feet to the TRUE POINT OF BEGINNING.

Containing 90,228.29 square feet or 2.07 acres more or less.

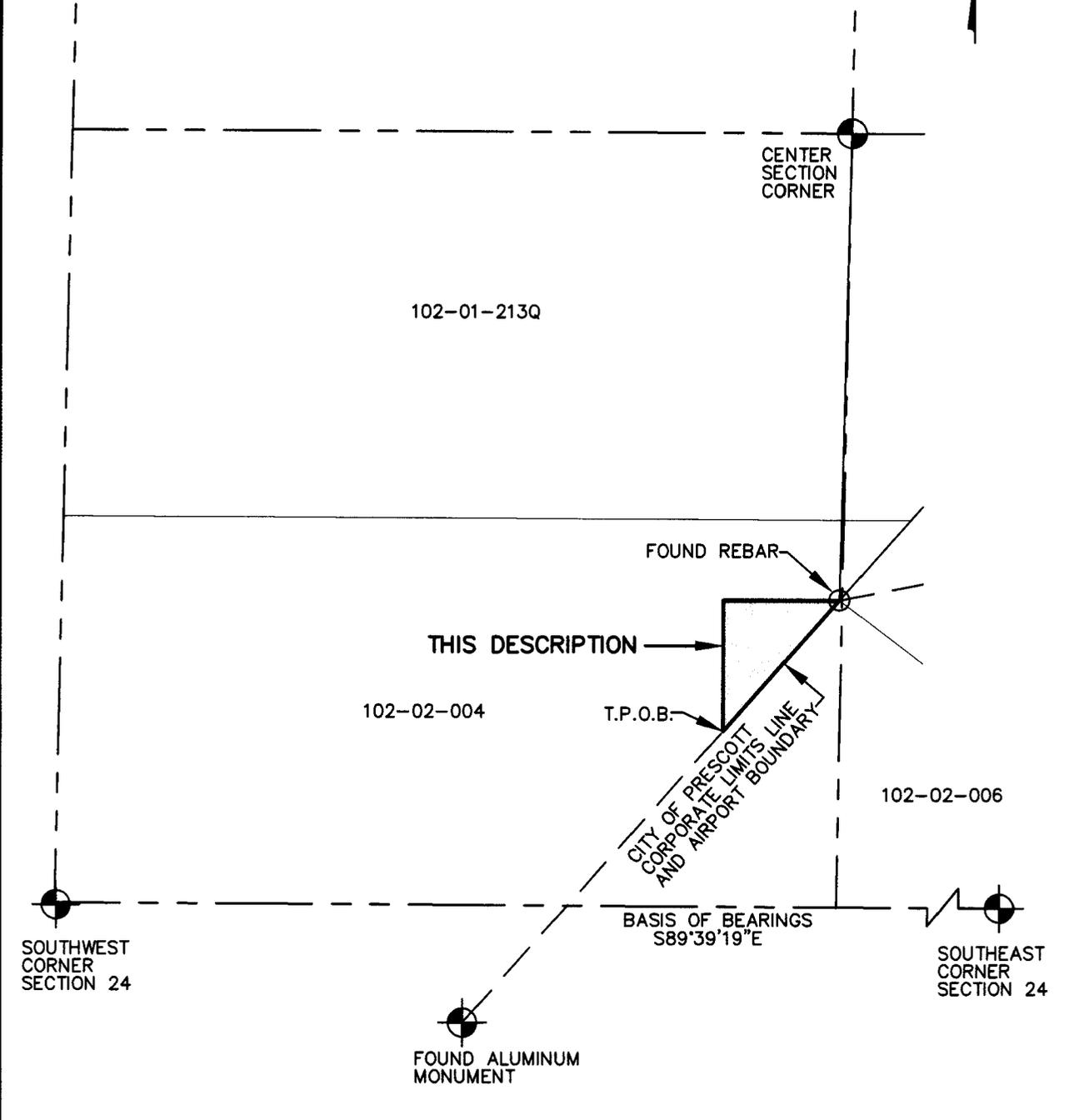
09/30/10
Exhibit A.doc

SCOTT A. LYON, R.L.S.



EXPIRES 6/30/13

EXHIBIT "B"
MAP TO ACCOMPANY
LEGAL DESCRIPTION



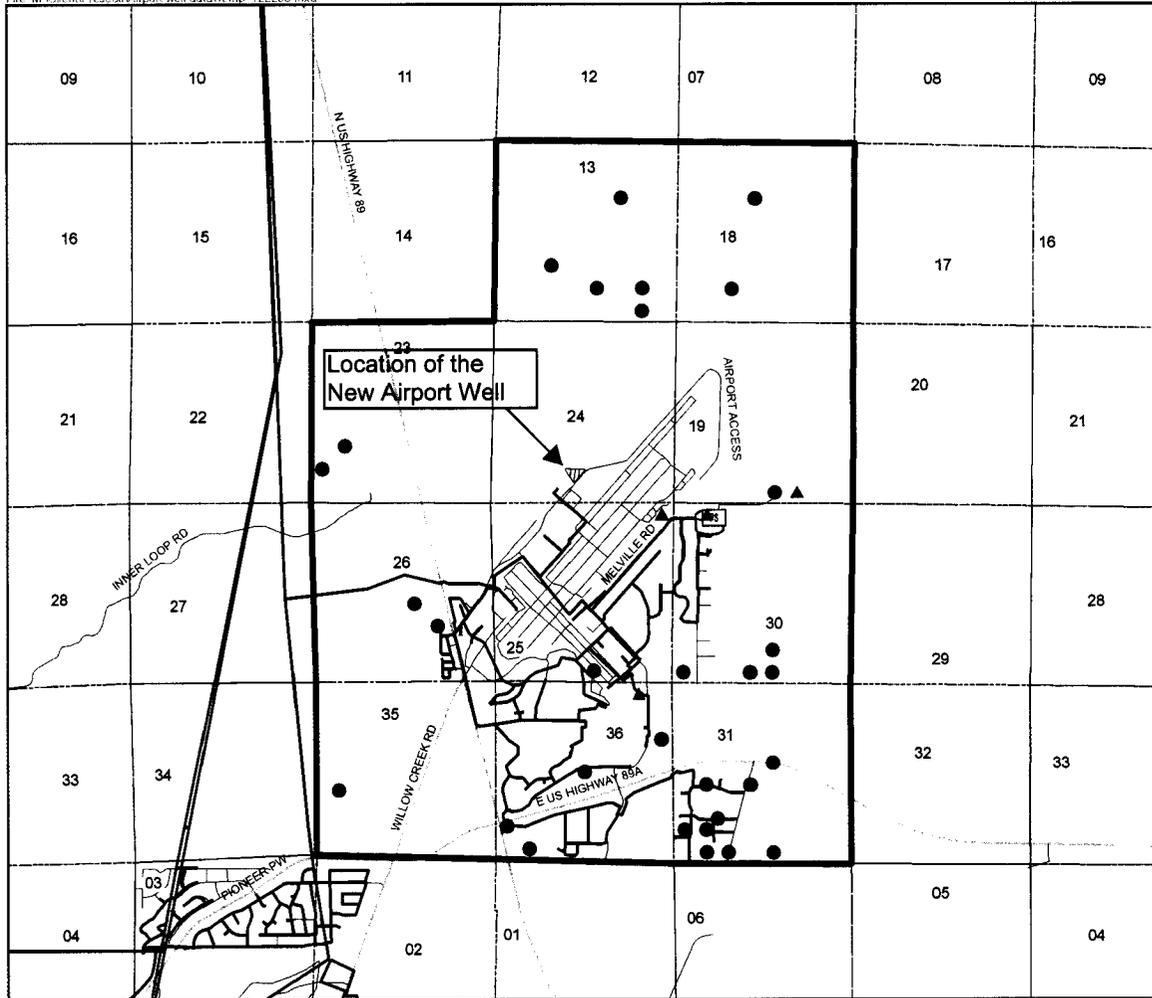


EXHIBIT "C"

Love Field Airport Prescott, Arizona

- ▲ City of Prescott Well
- Other Area Well
- ▭ Area of Well Inventory
- Existing Water Mains
- ⊠ Booster Pump Station
- Storage Tank
- ⊡ Section Boundary
- Minor Road
- Major Road (Highway)



**PROJECT LOCATION MAP
 AIRPORT ZONE PRODUCTION / RECOVERY WELLS**



COUNCIL AGENDA MEMO – October 12, 2010

DEPARTMENT: Community Development

AGENDA ITEM: CC10-003 Comprehensive Sign Plan for Tim's Subaru. Located at 3230 Willow Creek Road. APN: 106-08-008D. Zoning: IL Owner: TC Land Management LLC. Agent: Perry Weiweck, A&B Signs,

Approved By:

Date:

Department Head: Tom Guice

Finance Director:

City Manager: Steve Norwood



10/04/10

REQUEST:

Tim's Subaru is an automotive dealership in the auto sales complex, located on 5 acres at the Northwest corner of Willow Creek Road and Sandretto Drive. To maximize visibility as cars drive past the hill on South bound Willow Creek Road, the applicant is requesting a internally lighted freestanding sign 98 square feet in size, 20 feet in height and 10 feet from the Willow Creek Road ROW. The dealership is a new building featuring a showroom and offices. The applicant proposes the placement of internally lighted wall signage totaling 136 square feet.

BACKGROUND:

The standard sign code will allow for one freestanding sign up to 24 square feet in size and 12 feet in height. The sign may be allowed as close as 5 feet from the Willow Creek Road ROW. Due to the amount of building frontage facing the street, wall signage is allowed up to 89 square feet.

Alternatively, the Highway Commercial signage provision within the LDC would allow for 2 freestanding signs up to 20 feet in height, and, up to 100 square feet in size, provided, however, the signs must be setback 1 foot for every 2 square feet of sign area (as an example; a 98 square foot sign must be setback 49 feet from the ROW). Wall signage would be allowed up to 89 square feet.

The applicant's increased wall signage and larger freestanding sign 20 feet height and setback only 10 feet, require an approved Comprehensive Sign Plan. The dealership is being built under existing zoning with no waivers or variances requested. The subject property has over 680 feet of street frontage. Approved building permits are on file for the structure and site parking.

The LDC allows that a Comprehensive Sign Plan may be requested by the owner of a property of a multi-tenant or multi-service commercial development. The Plan allows for innovative sign design, greater number of signs and greater sign area in exchange for higher quality signage or other considerations (Section 6.12.6.A).

AGENDA ITEM: CC10-003 Comprehensive Sign Plan for Tim's Subaru

PLANNING COMMISSION REVIEW AND RECOMMENDATION:

The Commission reviewed the proposed Plan at its meetings on September 9th and September 30th. The Commission discussion included the appropriateness of increased signage for an auto dealership, a comparison of other auto comprehensive sign plans and the need for increased signage on a large lot. The discussion concluded with a unanimous vote to forward a positive recommendation to Council, with the conditions as suggested below.

COMPREHENSIVE SIGN PLANS FOR AUTO DEALERS

Tim's Toyota	(CC07-001) signage permitted	200 sq. ft.	signs approved	1155 sq. ft.
York Motors	(CC02-001) signage permitted	200 sq. ft.	signs approved	460 sq. ft.
Galpin Ford	(CC01-002) signage permitted	200 sq. ft.	signs approved	450 sq. ft.
Lamb	(CC02-005) signage permitted	200 sq. ft.	signs approved	300 sq. ft.
Affinity RV	(CC02-004) signage permitted	100 sq. ft.	signs approved	280 sq. ft.
Tim's Subaru	(CC10-003) signage permitted	286 sq. ft.	signs requested	234 sq. ft.
Prescott Honda	(CC04-004) signage permitted	100 sq. ft.	signs approved	230 sq. ft.

NEIGHBORHOOD RESPONSE:

The Director of Business and Finance at Embry-Riddle Aeronautical University requested further information regarding the application. He later indicated that he had no concerns with the request. No other comments or concerns have been received as of this writing.

FINDINGS:

The applicant appears to meet 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 by allowing increased wall signage and reducing the setback for the single freestanding sign, as well as eliminate an allowed, but unnecessary second freestanding sign.

Galpin Ford and Tim's Toyota also have Comprehensive Sign Plans. The Toyota and Subaru dealerships have the same ownership, but are considered separate businesses. All three dealerships are located in the Commercial Corridor Overlay district which requires that all sign lighting be turned off one hour after closing or by 10:00 pm, which ever is later.

- Attachments:
- Vicinity and Zoning Map
 - Letter of Intent
 - Elevations

RECOMMENDED ACTION: MOVE to approve CC10-003 subject to: (1) all signage lighting must be switched off at night in accordance LDC section 5.3.8.



CC10-003

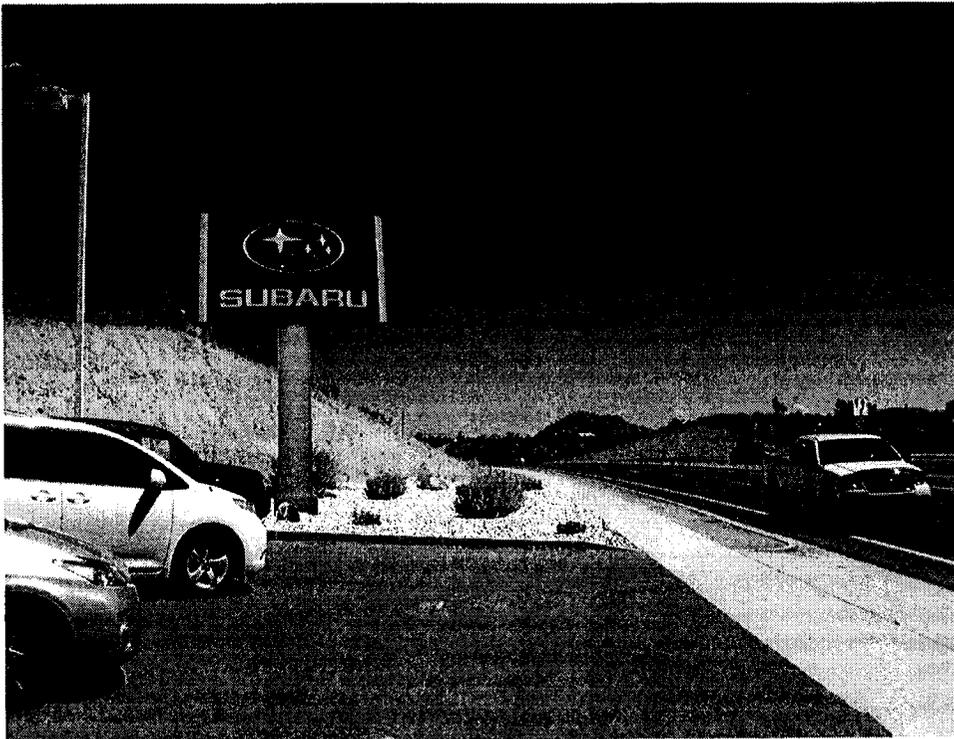
691 North Sixth Street, Prescott, Arizona 86301 • Phone 928 445-6995

APN: 106-08-008 D

Tim's Subaru is a locally owned car dealership opening a new showroom located at 3230 Willowcreek Road. Due to its proximity to Willowcreek Road, it qualifies for highway commercial. The code allows for up to 100 sq/ft and 20 foot overall height if properly set back on property. Tim's Subaru is requesting that the newly proposed sign be allowed a 10 foot setback because of terrain and other signage in place for other dealerships. All other signage will conform to code requirements for highway commercial.

Perry Weirich
President

Photo for conceptualization only.



0010-0003

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.



Prescott's Only Full Services Sign Shop
AZ. Licensed Contractor # 070010

Office 928 445-6995

Fax 928 776-4429

absign@qwest.net

691 North 6th street
Prescott, AZ 86301

COMPANY: Tims Subaru

CLIENT:

PHONE:

APPROVAL:

EMAIL:

FILE: Tims Subaru

Origin DATE: 8-17-10

DATE:

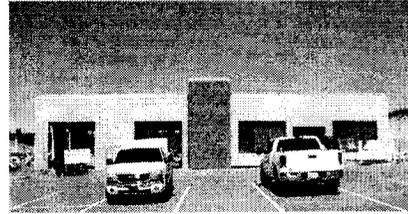
Revise DATE:

Design by SP

SUB LOGO 53 ILLUM. LOGO 53" H X 8" 5 3/8" OAW
 CL1 SUB ILLUM. LETTERS 3" H X 25" 7 3/4" OAW
 WS_24 57 ILLUM. WALL SIGN 3' 7 1/4" H X 6' 6 7/16" OAW

**PERMITS
 ONLY**

EXISTING



PROPOSED



FRONT ELEVATION

SCALE 1/8" = 1'

**Philadelphia Sign
 COMPANY**
 707 West Spring Garden Street
 Palmlyn, New Jersey 08065
 Phone: 410-823-1400
 Fax: 410-823-4590
 E-mail: info@philadelphiasign.com



SUBARU

REVISIONS

Date	Description	By
1		
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6		
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8		
9		

DRAWING TYPE:

PERMIT

SIGN TYPE:

VARIOUS

LOCATION: SUB09782
 3230 WILLOW CREEK ROAD
 PRESCOTT, ARIZONA 86305

DATE:

9.16.10

DRAWN BY:

NSL

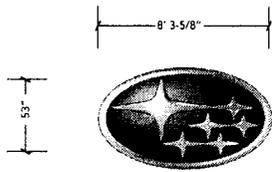
SHEET:

1 of 3

DWG NUMBER:

B38796

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 DRAWING CREATED BY P.S.C.O. IT
 IS SUBMITTED FOR YOUR PERSONAL
 USE IN CONNECTION WITH A PROJECT
 BEING PLANNED FOR YOU BY P.S.C.O.
 IT IS NOT TO BE SHOWN TO ANYONE
 OUTSIDE YOUR ORGANIZATION NOR
 IS IT TO BE USED, COPIED, REPRODUCED,
 OR EXHIBITED IN ANY FASHION.



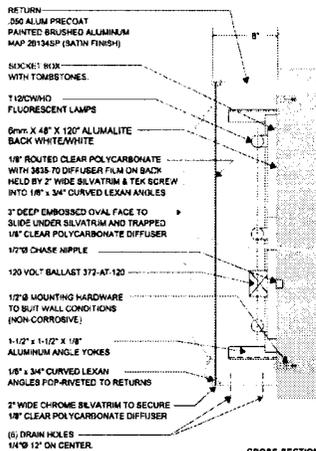
LOGO WALL SIGN
Scale: 1/4" = 1' 0"

(Face Size 3144 Sq. Inches = 46.9 Sq. Ft.)

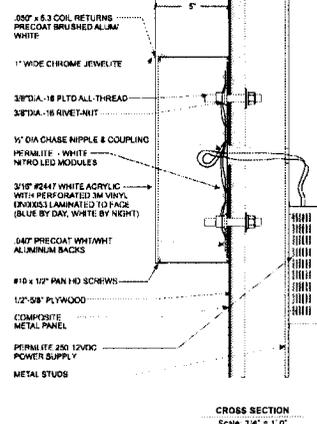


BLUE DAY / WHITE NIGHT LETTERS
Scale: 1/4" = 1' 0"

(11076 Sq. Inches = 76.9 Sq. Ft.)



PERMITS ONLY



- STANDARD WALL SIGN NOTES:**
1. Sufficient Primary Circuit In Vicinity Of Sign By Others.
 2. Final Primary Hook-up By Sign Installer, Where Allowed By Local Codes.
 3. Sign Shall Be U.L. Listed.
 4. Mounting Hardware By Sign Installer.

ELECTRICAL LOAD
2.0 Amps @ 120 Volts
ELECTRICAL REQ'MTS
(1) 20 Amp/120 Volt Circuit

- STANDARD LETTER NOTES:**
1. Sufficient Primary Circuit In Vicinity Of Sign By Others.
 2. Letter To Letter Wiring And Final Primary Hook-up By Sign Installer, Where Allowed By Local Codes.
 3. Sign Shall Be U.L. Listed.
 4. Mounting Hardware By Sign Installer.
 5. Full Size Drilling Template Furnished With Sign.

ELECTRICAL LOAD
4.0 Amps @ 120 Volts
ELECTRICAL REQ'MTS
(1) 20 Amp/120 Volt Circuit

Philadelphia Sign COMPANY
707 West Spring Garden Street
Palmyra, New Jersey 08065
Phone: 610-221-1600
Fax: 610-221-8500
E-mail: info@philadelphia-sign.com



REVISIONS

Date	Description	By
1.		
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9.		

DRAWING TYPE:
PERMIT

SIGN TYPE:
CHANNEL LETTERS

LOCATION: SL608782
3230 WILLOW CREEK ROAD
PRESCOTT, ARIZONA 86305

DATE:
9.1.10

DRAWN BY:
NSL

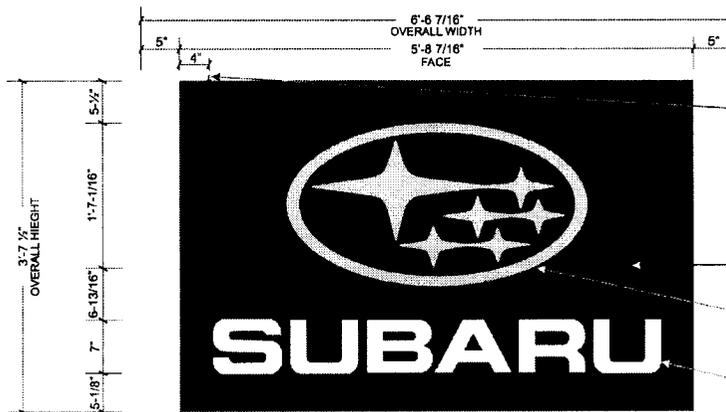
SHEET:
2 of 3

DWG NUMBER:
B38796

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PERMITS ONLY



SHUT OFF SWITCH

1/8" ALUMINUM END CAP
 PAINTED SUBARU SILVER
 SVOC-1905

1/8" ROUTED ALUMINUM FACE
 PAINTED SUBARU BLUE SVOC-1975

FORMED ILLUMINATED LOGO W/
 ARLON #2500-3101 BACKED UP W/
 WHITE VINYL #3630-20

1/8" WHITE VIVAK HT
 PUSH THRU COPY

ELEVATION VIEW
 SCALE: 1" = 1'-0"

STANDARD WALL SIGN NOTES:

1. Sufficient Primary Circuit in Vicinity Of Sign By Others.
2. Final Primary Hook-up By Sign Installer, Where Allowed By Local Codes.
3. Sign Shall Be U.L. Listed.
4. Mounting Hardware By Sign Installer.
5. This Sign has been Designed with the Criteria as set forth in the IBC 2003 & IBC 2006. The Design Meets or Exceeds those Requirements for the Geographical Location in Which it is to be Erected.

ELECTRICAL LOAD
 (2.0) Amps @ 120 Volts
ELECTRICAL REQMTS
 (1) 20 Amp/120 Volt Circuits

NOTE: UTILIZE ONE OF THE FACES FROM P-24 CUSTOM PYLON HEAD FOR FABRICATING THIS CUSTOM WALL SIGN.

Note: This sign is intended to be installed in accordance with the requirements of Article 800 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

REVISIONS

Date	Description	By:
1.		
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9.		

DRAWING TYPE:

PERMIT

SIGN TYPE:
 WALL SIGN

LOCATION: 58809782
 3230 WILLOW CREEK ROAD
 PRESCOTT, ARIZONA 86305

DATE:
 9.16.10

DRAWN BY:
 NSL

SHEET:
 3 of 3

DWG NUMBER:
 B38796

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COUNCIL AGENDA MEMO – October 12, 2010

DEPARTMENT: Community Development

AGENDA ITEM: Amend LDC Section 9.1 / COMMON PROCEDURE - Citizen Participation. To clarify the Citizen Participation procedures of the Land Development Code.

Approved By:

Date:

Department Head: Tom Guice

Finance Director:

City Manager: Steve Norwood



10/06/10

INTRODUCTION:

The citizen participation procedures and area meeting requirements in the LDC contain some conflicting language. This proposed modification to LDC language is to clarify the Citizen Participation procedures and practices. Area meeting notice requirements were specifically addressed to help increase public awareness of Community Development applications that may affect surrounding property owners.

SUMMARY OF PROPOSED CHANGES:

Changes include language to clarify area meeting requirements, advertising and timing. This specifies which applications will require an area meeting, who is to be notified and when. Public notification requirements are differentiated for Area Meetings verses Public Hearings. Proposed changes are highlighted in gray, additions are shown in **bold** and deletions are shown in ~~strikeout~~. Changes include:

- Area meetings are to be posted with one or more signs on the subject property in locations clearly visible to adjacent residents setting forth the time, date and place of the neighborhood meeting.
- Property owners of record within 300 feet of a proposed project, will be notified 10 days before the area meeting.
- Area meetings must take place at least 1 week before required Public Hearings.
- Area meetings may be waived or modified by the Community Development Director.
- City residents may request to be notified for all Public Hearings per ARS.
- ARS does not require that, if requested, City residents must be notified of all Area Meetings.

PLANNING COMMISSION REVIEW AND RECOMMENDATION:

The Commission reviewed the proposed changes at its meeting on July 29th. The Commission discussion included State requirements regarding citizen participation and support of eliminating confusion in the LDC. The discussion concluded with a unanimous vote to forward a positive recommendation to Council, with the changes as suggested below.

RECOMMENDED ACTION: MOVE to adopt Ordinance No. 4763-1114.

Article 9/ Administration and Procedures

Sec. 9.1 / Common Procedure

9.1.1 / Conformity with Land Development Code

Every official and employee of the City of Prescott vested with the duty or authority to issue a permit or license shall not issue a permit or license for any use, building, or purpose that conflicts with any provision of this Code. Any permit, license or certificate issued in conflict with the provisions of this Code may be voided at the option of the City.

9.1.2 / Pre-application Meeting

Prior to the submission of an application required by this Code, a pre-application meeting may be required as follows:

A. Mandatory Conference

Unless waived by the Community Development Director, a pre-application meeting to discuss procedures, standards, or regulations shall be required for all proposed:

1. Conditional Use Permits;
2. Nonresidential and multi-family developments;
3. Planned Area Developments;
4. Site Plan Review;
5. Special Use Permits;
6. Subdivisions;
7. Variances; and
8. Zoning Map Amendments (Rezoning).

B. Optional Conference

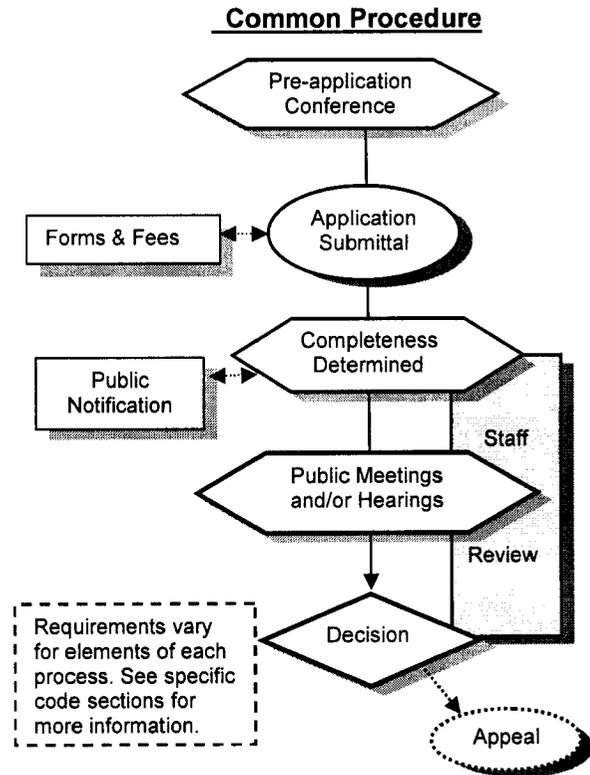
A pre-application meeting is optional for all other applications. Applicants are encouraged to attend an optional pre-application meeting prior to submitting any application.

9.1.3 / Application Forms and Fees

The following regulations shall apply to all applications:

A. Property Owner Identification and Endorsement

All applications shall include the name and signature of the current property owner and agent, as applicable.



B. Forms and Content

1. Applications required under this Code shall be submitted on forms, with any requested information and attachments, and in such numbers, as required by the City, including any checklists for submittals.
2. City staff shall provide a specific list of minimum submittal requirements for each application type. All applications shall meet the minimum submittal requirements and include sufficient information to demonstrate compliance with all applicable standards of this Code.
3. Should additional information be necessary to clarify or facilitate the review of an application, the Community Development Director may request any other pertinent information required to ensure compliance with this Code.

C. Fees

1. Filing fees shall be established from time to time by the City; and
2. All required fees shall be made payable to "The City of Prescott"; and
3. Applicants who pay the appropriate application fee for the submission of an application and subsequently choose to withdraw such application prior to the City expending time in review shall be entitled to a refund of 50 percent of the total amount paid upon written request; and
4. City initiated actions shall not cause a fee to be levied.

9.1.4 / Application Deadline

All applications shall be completed and submitted to the Community Development Director in accordance with a schedule established annually by the City. An application shall not be considered as officially submitted until it has been determined to be complete in accordance with Section 9.15.

9.1.5 / Application Completeness

An application shall be considered submitted only after the Community Development Director determines that it is complete, provided in the required form, includes all mandatory information and exhibits, and is accompanied by the applicable fee. The official responsible for accepting the application shall make a determination of application completeness within 15 working days of the submittal deadline. If an application is determined to be incomplete, the official responsible for accepting the application shall contact the applicant to explain the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 30 days, the application shall be considered withdrawn.

9.1.6 / Area / Neighborhood Meetings

At the discretion of the Community Development Director, an "area neighborhood" meeting may be scheduled and held on any/all development related applications. **The neighborhood meetings required herein shall be conducted for the purpose informing nearby property owners of the proposed application and to receive comments.**

A. Area/Neighborhood Meeting Requirements. Persons who wish to submit applications requesting amendments to the City of Prescott General Plan, zoning regulations, zoning map or Master Development Plans shall first coordinate with the City to conduct at least one (1) neighborhood meeting in accordance with this Section.

B. Neighborhood Meeting Schedule. The neighborhood meeting shall be conducted prior to any public hearing on the application unless waived by the Community Development Director.

C. Neighborhood Meeting Notification. At least ten (10) days prior to any neighborhood meeting, notification shall be provided as follows:

1. Notification by first-class mail to all property owners of record within three hundred (300) feet of the property to be included in the application;
2. Notification by first-class mail to all homeowners associations with common area within 300 feet of the property to be included in the application;

3. The Community Development Director may expand the notification area set forth herein if he/she determines that the potential impact of the proposed application extends beyond the required notification area;
4. Notification by first-class mail is not required to any persons who have specifically or generally requested notice regarding *area meetings* for proposed Community Development applications. Some required *hearings* allow for notifications per LDC section 9.1.11 and ARS 9-462.04.6;
5. The notice shall set forth the substance of the proposed application and shall include the time, date and place of the neighborhood meeting;
6. Posting of one or more signs on the property in locations clearly visible to adjacent residents setting forth the time, date and place of the neighborhood meeting. The sign or signs shall comply with the requirements for notification signs set forth in ARS §9-462.04 (as amended).

D. Area/Neighborhood Meeting Procedure. Neighborhood meetings shall be conducted at a location and time, and shall follow a meeting format, approved by the Community Development Director. City staff will attend such meetings and may augment the meeting record described hereinafter as staff deems necessary.

E. Record of Proceedings. A general record of topics discussed at any neighborhood meeting shall be made available in subsequent public hearings held on the application.

F. Additional Neighborhood Meetings. The Community Development Director may require that additional neighborhood meetings be held. If a subsequent application is substantially different from what was presented at neighborhood meetings, additional meetings may be required by the Community Development Director at his/her sole discretion. The same notification procedures prescribed herein shall be followed.

G. Other Required Meetings. Where an application has already been filed and neighborhood meetings were not otherwise required, the Community Development Director may at his/her sole discretion require that one or more neighborhood meetings be held as required herein if he/she makes a determination that the application may substantially impact adjacent neighborhoods.

H. Neighborhood Meeting Waivers. The Community Development Director may waive the requirement for a neighborhood meeting. In such cases, the Community Development Director shall set forth the reasons for approving the waiver.

9.1.7 / Public Notices

All public meetings and hearings shall be posted in City Hall in accordance with State Law and the requirements of the Prescott City Code.

9.1.8 / Posting of Public Meetings and Hearings

A. Summary of Notice Practices

Notice shall be provided as required by Title IX, Arizona Revised Statutes. Additional supplemental notices by the City of Prescott may occur as per the Community Development Director. Required and supplemental notice practices are shown in the table that directly follows.

Table 9.1.8A

SUMMARY OF NOTICE PRACTICES			
Application Type	Published	Mailed	(Property) Posted
Administrative Adjustments		X	
Appeal of Code Interpretations	X		
Conditional Use Permit	X	X	X
General Plan Amendments	X		
Historic Designation	X	X	X
Special Use Permit	X	X	X
Text Amendment	X		
Variance	X	X	X
Zoning Map Amendment	X	X	X

B. Specific Notice Requirements

The following specific notice requirements shall apply to all required public hearings, except as may be otherwise specified in the Prescott City Code or in Arizona Revised Statutes.

1. Published Notice

An advertisement (Public Hearing Notice) shall be placed by the Community Development Director at least once in a local newspaper of general circulation within the City. The advertisement shall be published at least 15 calendar days prior to the meeting.

2. Mailed Notice

A notice of public hearing shall generally be sent by U.S. first class mail to owners of record of real property within 300 feet of the parcel under consideration or farther at the Community Development Director's discretion. Alternatives to this standard may occur for administrative waivers, historic preservation actions, or as otherwise permitted by state statutes.

3. Posted Notice

A notice of public hearing shall be posted where legible **from in** at least **2 locations**. **Postings shall be visible from** rights-of-way adjoining the subject property **wherever possible**. Such notice shall be composed of weatherproof materials.

C. Content of Notice

All published, posted, or mailed notices shall provide some, or all, of the following specific information as determined by the Community Development Director:

1. General location of land that is the subject of the application;
2. County Tax Assessor's Parcel Number, and the street address, if available;
3. Vicinity map;
4. Substance of the application, including the magnitude of proposed development and the current zoning district;
5. Time, date and location of the public hearing;
6. Phone number to contact the City; and
7. Statement that interested parties may appear at the public hearing.

9.1.9 / Public Notices

All public hearings before decision-making bodies in the City of Prescott are normally, but not always, preceded by a public meeting(s) before the same body at which the issues relative to each land use application are explored.

9.1.10 / Required Public Hearings Meetings

The following table illustrates the types of review and the body responsible for holding a public meeting to consider such applications.

Table 9.1.10

ITEMS FOR PUBLIC MEETINGS			
Application Type	Board of Adjustment	Planning and Zoning Commission	City Council
Administrative Appeals	X		
Comprehensive Sign Plan		X	X
Conditional Use Permit	X		
General Plan Amendments		X	X
PAD Master Plan/Site Plan		X	X
Site Plans, Council-approved		X	X
Special Use Permit		X	X
Subdivisions/ PAD		X	X
Text Amendment		X	X
Variance	X		
Water Service Agreement (4 or more dwellings)			X
Zoning Map Amendment		X	X

9.1.11 / Required Public Meetings-Hearings

- A. The Community Development Director shall provide notice of public *hearings*. **ARS 9-462.04.6 cites changes in use, number of stories and greater than 10% changes in the following: area, height, setback and open space as requiring a public hearing.** The Community Development Director shall **also** provide notice of public hearings ~~or public meetings~~ to persons who annually register, by providing their names and addresses and paying the fee established by the City to cover annual expenses, as being interested in receiving such notice, and when deemed warranted.
- B. The Community Development Director may require, at his discretion, applicants not otherwise required by state statutes or Code requirements to post or mail notices, and/or to attend area neighborhood meetings with surrounding residents when deemed warranted. Public meetings shall be scheduled whenever practicable prior to the public hearing.

9.1.12 / Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this Code, the applications for those development approvals may be processed simultaneously at the option of the Community Development Director and with the approval of the applicant; provided, however, rezoning applications may not be processed simultaneous with General Plan Amendments. The simultaneous processing of applications shall be in all cases at the applicant's risk.

ORDINANCE NO. 4763-1114

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, TO AMEND TITLE X, *LAND DEVELOPMENT CODE*, OF THE PRESCOTT CITY CODE, BY AMENDING SECTION 9.1, *COMMON PROCEDURE*

RECITALS:

WHEREAS, the City Council of the City of Prescott has determined that it would be in the best interest of public necessity, interest, convenience or general welfare to amend the *Land Development Code*; and

WHEREAS, the requirements of Title 10 of the Prescott City Code and the provisions of Article 9 of the Land Development Code have been complied with.

ENACTMENTS:

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

Section 1. Amendments to the *Land Development Code*:

9.1.6 / Area / Neighborhood Meetings

At the discretion of the Community Development Director, an "area neighborhood" meeting may be scheduled and held on any/all development related applications. The neighborhood meetings required herein shall be conducted for the purpose informing nearby property owners of the proposed application and to receive comments.

- A. Area/Neighborhood Meeting Requirements. Persons who wish to submit applications requesting amendments to the City of Prescott General Plan, zoning regulations, zoning map or Master Development Plans shall first coordinate with the City to conduct at least one (1) neighborhood meeting in accordance with this Section.
- B. Neighborhood Meeting Schedule. The neighborhood meeting shall be conducted prior to any public hearing on the application unless waived by the Community Development Director.
- C. Neighborhood Meeting Notification. At least ten (10) days prior to any neighborhood meeting, notification shall be provided as follows:
 1. Notification by first-class mail to all property owners of record within three hundred (300) feet of the property to be included in the application;

2. Notification by first-class mail to all homeowners associations with common area within 300 feet of the property to be included in the application;
 3. The Community Development Director may expand the notification area set forth herein if he/she determines that the potential impact of the proposed application extends beyond the required notification area;
 4. Notification by first-class mail is not required to any persons who have specifically or generally requested notice regarding area meetings for proposed Community Development applications. Some required hearings allow for notifications per LDC section 9.1.11 and ARS 9-462.04.6;
 5. The notice shall set forth the substance of the proposed application and shall include the time, date and place of the neighborhood meeting;
 6. Posting of one or more signs on the property in locations clearly visible to adjacent residents setting forth the time, date and place of the neighborhood meeting. The sign or signs shall comply with the requirements for notification signs set forth in ARS §9-462.04 (as amended).
- D. Area/Neighborhood Meeting Procedure. Neighborhood meetings shall be conducted at a location and time, and shall follow a meeting format, approved by the Community Development Director. City staff will attend such meetings and may augment the meeting record described hereinafter as staff deems necessary.
- E. Record of Proceedings. A general record of topics discussed at any neighborhood meeting shall be made available in subsequent public hearings held on the application.
- F. Additional Neighborhood Meetings. The Community Development Director may require that additional neighborhood meetings be held. If a subsequent application is substantially different from what was presented at neighborhood meetings, additional meetings may be required by the Community Development Director at his/her sole discretion. The same notification procedures prescribed herein shall be followed.
- G. Other Required Meetings. Where an application has already been filed and neighborhood meetings were not otherwise required, the Community Development Director may at his/her sole discretion require that one or more neighborhood meetings be held as required herein if he/she makes a determination that the application may substantially impact adjacent neighborhoods.

H. Neighborhood Meeting Waivers. The Community Development Director may waive the requirement for a neighborhood meeting. In such cases, the Community Development Director shall set forth the reasons for approving the waiver.

9.1.8.B . . .

3. Posted Notice

A notice of public hearing shall be posted where legible ~~from~~ in at least 2 locations. Postings shall be visible from rights-of-way adjoining the subject property wherever possible. Such notice shall be composed of weatherproof materials.

9.1.10 / Required Public Hearings Meetings

9.1.11 / Required Public ~~Meetings~~-Hearings

A. The Community Development Director shall provide notice of public hearings. ARS 9-462.04.6 cites changes in use, number of stories and greater than 10% changes in the following: area, height, setback and open space as requiring a public hearing. The Community Development Director shall also provide notice of public hearings ~~or public meetings~~ to persons who annually register, by providing their names and addresses and paying the fee established by the City to cover annual expenses, as being interested in receiving such notice, and when deemed warranted.

PASSED AND ADOPTED by the Council of the City of Prescott, Arizona, on this 12th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

COUNCIL AGENDA MEMO – 10/12/2010
DEPARTMENT: Community Development
AGENDA ITEM: Amending the Land Development Code (LDC) to allow a fee to be paid to the City in lieu of providing physical parking spaces for businesses in the Downtown Business District (DTB) and exempting certain buildings from the requirement to provide parking on-site. Establishing the fee in lieu of physical parking.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood <i>SNorwood</i>	<i>10/06/10</i>

BACKGROUND

The Unified Development Code Committee (UDC) has discussed the desire to amend the Land Development Code's (LDC) current fee in lieu of parking provisions to make it easier to implement, specifically in the downtown. The current LDC provisions allow for a fee but require the creation of a "Parking District" which is onerous upon property owners and can be a lengthy process. The UDC also proposes to re-establish a prior exemption to on-site parking for uses in buildings constructed before 1968. Currently, all buildings must provide on-site parking for any non-exempt uses.

Certain uses are already exempted from providing on-site parking in the DTB by Section 4.9.4.C.2 and those uses are listed in Section 11.1.5.E.3.a & c. The proposed code amendments will not affect the parking exemption for these uses.

The proposal formulated by the UDC is focused on the Downtown Business (DTB) District due to the unique character of the downtown and the proximity of the city parking garage and readily available on-street public parking.

PROPOSED ACTIONS

The proposal is to amend the LDC to exempt any uses in buildings constructed prior to 1968 from the requirement to provide on-site parking. This would still require newer buildings and new additions to provide on-site parking for the new floor areas, or to pay a fee to the city in-lieu of providing such parking, at the property owner's discretion. Buildings built in the DTB from 1968 to the present will have the ability to make use of the in lieu fee when on-site parking is infeasible or undesirable.

The exemption is proposed in recognition of the unique character of historical development in the downtown and takes into account the availability of significant on-street public parking and the city parking garage. The in-lieu fee is to provide an alternative to property owners when constructing a new building in the DTB or when they add additional floor area to an existing building and do not want to, or cannot, provide the required parking on the building site. An Ordinance is required to amend the LDC and a Resolution would establish the in-lieu fee.

Agenda Item: Amend the Land Development Code (LDC) to allow a fee to be paid to the City in lieu of providing physical parking spaces for businesses in the Downtown Business District and to exempt certain buildings from providing parking.

Following UDC review, the proposal was forwarded the Planning and Zoning (P&Z) Commission who discussed the proposal over several meetings. The P&Z Commission made some clarifications to various sections, including clarifying the language exempting buildings constructed prior to 1968 from providing on-site parking. The Commission reached a unanimous agreement to move this proposal on to the City Council for discussion and action.

IN-LIEU FEE AMOUNT

Throughout the discussions by the UDC and the P&Z Commission the topic of the actual fee amount was touched-upon, but not thoroughly discussed. Early in the UDC review, it was determined that the City Council would need to establish the fee amount by Resolution and that there were at least two approaches to establishing the fee amount. One potential approach is to set the fee amount based upon the actual cost of creating a parking space. The second potential approach is to set a lower fee with the intention of collecting only “seed money” for constructing future public parking and/or providing an incentive.

The first approach provides the city with the financial ability to create more parking in the near-term. This approach would require an in-lieu fee of approximately \$12,500 to \$15,000 per space. In an early discussion, it was suggested by the UDC to consider including some form of annual adjustment of the fee, perhaps tied to the rate of inflation or the Consumer Pricing Index or the Engineering News Record (ENR) Construction Cost Index. With this approach the City Council would theoretically have a ready pool of money to use to create new parking with each new use. However, this approach has the potential to create a financial dis-incentive for the use of the in-lieu fee option if the fee amount is high enough to discourage a potential developer.

The second approach of lowering the in-lieu fee to provide seed money for creation of future public parking would provide the city with some, but would require the city allocate funds from other sources to supplement the collected in-lieu fees to actually construct public parking. This approach would allow the City Council considerable flexibility in setting a fee lower than the \$12,500 to \$15,000 per space range suggested above. A lower fee could be considered an incentive for new development in the downtown. A potential user would be able to pay the in-lieu fees at a cost lower than actually building such spaces, thus providing an incentive to develop in the DTB district.

SPECIFIC CODE LANGUAGE

Following is the specific code language to accomplish the recommendations of the P&Z Commission with underlined text being new and ~~struck-through text~~ being deleted.

4.9.4 / District Standards, Guidelines, and Procedures

District standards, guidelines and procedures applicable in the DTB district include the following:

Agenda Item: Amend the Land Development Code (LDC) to allow a fee to be paid to the City in lieu of providing physical parking spaces for businesses in the Downtown Business District and to exempt certain buildings from providing parking.

A. ...

B. ...

C. Parking and Loading

1. *Off-street parking and loading shall be provided for all uses in accordance with the provisions of Section 6.2, Off-street Parking and Loading, and particularly Section 6.2.2.C, Change of Use. Where surface parking lots are developed, such parking areas shall be screened in all cases from street view in accordance with the applicable requirements of Section 6.5.6, Parking Area Landscaping.*

2. *~~In the DTB district and in~~ Notwithstanding the off-street parking requirements of Section 6.2, Off-street Parking, off-street parking within the DTB shall not be required for permitted uses within buildings constructed prior to 1968. For uses in buildings constructed from 1968 to the present, retail stores, restaurants and other hospitality-related uses in the Retail, Service and Business Categories as defined by Section 11.1.5.E.3.a. and Section 11.1.5.E.3.c. shall not be required to provide off-street parking. It shall be the applicant's responsibility to provide sufficient documentation as to the construction date of the building.*

3. *Fees In-Lieu of Parking. Within the DTB, off-street parking requirements for uses not exempted by paragraph 2, above, may be satisfied by payment of an in-lieu parking fee, in an amount and manner established by the City Council by resolution. Such payment shall be made prior to the issuance of a Certificate of Occupancy. In-lieu fees in the DTB shall be governed by the following:*
 - a. *The in-lieu fee may not be used for more than 20 required parking spaces for any use.*

 - b. *The in-lieu fee may be used at the time of a change of use on a site resulting in additional required parking which cannot physically be accommodated on-site, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).*

 - c. *The in-lieu fee may be used at the time of a change to structures on a site which result in a reduction of the number of existing physical parking spaces on the site and/or an addition to the floor area of the building, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).*

 - d. *The in-lieu fee option may be requested by a tenant with the property owner's written consent. The in-lieu fee agreement shall be in a form approved by the City Attorney and will establish the number of parking spaces and the total amount of the in-lieu fees under the agreement. Such agreement shall run with the use, provided however, that it may be terminated, modified or replaced to comply with the provisions of paragraphs a. through c. above, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).*

Agenda Item: Amend the Land Development Code (LDC) to allow a fee to be paid to the City in lieu of providing physical parking spaces for businesses in the Downtown Business District and to exempt certain buildings from providing parking.

The following sections are generally applicable city-wide. Specific changes to Article 6 are necessary to maintain consistency throughout the code. These changes are noted below.

6.2.2 / Applicability

A. ...

B. ...

C. Change of Use

Off-street parking and loading must be provided for any change of use or manner of operation that would, based on the Off-Street Parking Table 6.2.3 result in a requirement for more parking or loading spaces than the existing use; provided, however, buildings and uses which existed prior to October 28, 1968, which did not conform to the off-street parking requirements shall not be required to furnish such additional off-street parking ~~on-site~~ unless there is sufficient room on-site for the additional parking. ~~Where there is insufficient room on-site for additional parking, the additional parking shall be provided in a manner acceptable to the Community Development Director.~~

D. The Downtown Business District

The Downtown Business District has specific requirements relating to parking. See Section 4.9.4 for applicable provisions.

6.2.10

A. ...

B. ...

C. ...

D. Fees In-Lieu of Parking

Within parking districts as may be established by the City Council from time to time, off-street parking requirements ~~for nonresidential uses~~ may be satisfied by payment of an in-lieu parking fee established by the City Council. Such payment shall be made before issuance of a Building Permit or a Certificate of Occupancy for such use; fee revenue shall be used to provide public parking in the general vicinity of the use. In establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

Recommended Action: (1) MOVE to adopt Ordinance No. 4764-1115; and (2) MOVE to adopt Resolution No. 4048-1118.

ORDINANCE NO. 4764-1115

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE X, *LAND DEVELOPMENT CODE*, OF THE PRESCOTT CITY CODE BY PROVIDING FOR CHANGES TO SECTION 4.9, *DOWNTOWN BUSINESS (DTB)*; SECTION 6.2, *OFF-STREET PARKING & LOADING*; AND TABLE 11.2, *TERMS DEFINED*

RECITALS:

WHEREAS, the City Council of the City of Prescott has determined that it would be in the best interest of public necessity, interest, convenience or general welfare to amend the *Land Development Code*; and

WHEREAS, the requirements of Title 10 of the Prescott City Code have been complied with.

ENACTMENTS:

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

Section 1. Title X, *Land Development Code*, of the Prescott City Code is hereby amended as follows:

4.9.4 / District Standards, Guidelines, and Procedures

District standards, guidelines and procedures applicable in the DTB district include the following:

A. ...

B. ...

C. Parking and Loading

1. Off-street parking and loading shall be provided for all uses in accordance with the provisions of Section 6.2, Off-street Parking and Loading, and particularly Section 6.2.2.C, Change of Use. Where surface parking lots are developed, such parking areas shall be screened in all cases from street view in accordance with the applicable requirements of Section 6.5.6, Parking Area Landscaping.
2. ~~In the DTB district and n~~ Notwithstanding the off-street parking requirements of Section 6.2, Off-street Parking, off-street parking within the DTB shall not be required for permitted uses within buildings

constructed prior to 1968. For uses in buildings constructed from 1968 to the present, retail stores, restaurants and other hospitality-related uses in the Retail, Service and Business Categories as defined by Section 11.1.5.E.3.a. and Section 11.1.5.E.3.c. shall not be required to provide off-street parking. It shall be the applicant's responsibility to provide sufficient documentation as to the construction date of the building.

3. Fees In-Lieu of Parking. Within the DTB, off-street parking requirements for uses not exempted by paragraph 2, above, may be satisfied by payment of an in-lieu parking fee, in an amount and manner established by the City Council by resolution. Such payment shall be made prior to the issuance of a Certificate of Occupancy. In-lieu fees in the DTB shall be governed by the following:
 - a. The in-lieu fee may not be used for more than 20 required parking spaces for any use.
 - b. The in-lieu fee may be used at the time of a change of use on a site resulting in additional required parking which cannot physically be accommodated on-site, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).
 - c. The in-lieu fee may be used at the time of a change to structures on a site which result in a reduction of the number of existing physical parking spaces on the site and/or an addition to the floor area of the building, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).
 - d. The in-lieu fee option may be requested by a tenant with the property owner's written consent. The in-lieu fee agreement shall be in a form approved by the City Attorney and will establish the number of parking spaces and the total amount of the in-lieu fees under the agreement. Such agreement shall run with the use, provided however, that it may be terminated, modified or replaced to comply with the provisions of paragraphs a. through c. above, subject to other provisions of this Section (Specifically Section 4.9.4.C.2).

6.2.2 / Applicability

A. ...

B. ...

C. Change of Use

Off-street parking and loading must be provided for any change of use or manner of operation that would, based on the Off-Street Parking Table 6.2.3

result in a requirement for more parking or loading spaces than the existing use; provided, however, buildings and uses which existed prior to October 28, 1968, which did not conform to the off-street parking requirements shall not be required to furnish such additional off-street parking on-site unless there is sufficient room on-site for the additional parking. ~~Where there is insufficient room on-site for additional parking, the additional parking shall be provided in a manner acceptable to the Community Development Director.~~

D. The Downtown Business District

The Downtown Business District has specific requirements relating to parking. See Section 4.9.4 for applicable provisions.

6.2.10

A. ...

B. ...

C. ...

D. Fees In-Lieu of Parking

Within parking districts as may be established by the City Council from time to time, off-street parking requirements ~~for nonresidential uses~~ may be satisfied by payment of an in-lieu parking fee established by the City Council. Such payment shall be made before issuance of a Building Permit or a Certificate of Occupancy for such use; fee revenue shall be used to provide public parking in the general vicinity of the use. In establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

Table 11.2 / Terms Defined

In-Lieu Parking Fee

The in-lieu parking fee provides an alternative to property owners when they construct a new building in the DTB or when they add additional floor area to an existing building and do not want to, or cannot, provide the required parking on the building site. Buildings constructed prior to 1968 are exempt from the on-site requirement in the DTB. (See Section 4.9.4).

PASSED AND ADOPTED by the Council of the City of Prescott, Arizona, on this 26th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

RESOLUTION NO. 4749-1119

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT,
YAVAPAI COUNTY, ARIZONA, ADOPTING AN IN-LIEU PARKING FEE FOR THE
DOWNTOWN BUSINESS DISTRICT (DTB)**

RECITALS:

WHEREAS, Ordinance No. 4764-1115 allows the City Council to set certain fees by resolution; and

WHEREAS, the City Council of the City of Prescott has determined that it would be in the best interest of public necessity, interest, convenience or general welfare to adopt an In-Lieu Parking Fee in the Downtown Business District; and,

ENACTMENTS:

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

SECTION 1. THAT an In-Lieu Fee for parking in the Downtown Business District be set in the amount of \$12,500 per parking space, up to a maximum of 20 spaces; that an annual adjustment of the fee shall occur on the first day of each new fiscal year, based upon the Consumer Pricing Index or the Engineering News Record (ENR) Construction Cost Index, whichever is the greater, and, that the established fee shall be deposited into an account dedicated for the creation, improvement and management of parking in the downtown; and, that the City Council may waive or reduce the fee, at their discretion, for projects they deem to further a recognized public benefit.

SECTION 2. THAT the Mayor and staff are hereby authorized to take all such steps as may be necessary to effectuate said In-Lieu Parking Fee in the Downtown Business District.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott on this 12th day of October, 2010.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

TO: Prescott Preservation Commission

FROM: Dava Hoffman

DATE: May 29, 2007

SUBJECT: Downtown Parking Codes

There are many confusing and conflicting parts of the Prescott Land Development Code (LDC), although the intent was to consolidate regulations. Since its adoption in 2003, there have been many amendments made to the LDC. Another amendment is planned which the Preservation Commission may desire to be informed about and to discuss at the next PPC meeting, as it pertains to the Downtown Business District. The following is a brief summary.

Agenda Item 5 of the Prescott Planning and Zoning Commission's May 31st Regular Meeting is a proposal for "In Lieu of Parking Fees", an amendment of *Section 4.9, Downtown Business District (DTB)* of the LDC. This item is scheduled for discussion with possible voting action at the P & Z Commission's scheduled Public Hearing on June 7, 2007. A copy of the proposed amendment draft can be obtained from the Community Development Department.

The proposed amendment stems from Staff's attempt to provide an alternative method for property owners who would have great difficulty complying with the requirement for off-street parking to be provided on-site. The search for alternative methods is a commendable pursuit as it could aid in keeping the Downtown's pedestrian-oriented character intact. It could be an excellent tool for new construction.

The concern is that this appears to be a piecemeal approach to a needed overhaul of the LDC, especially the portions pertaining to parking requirements. The important areas of Sec. 4.9.4 which are not addressed in the proposed amendment are Subsections 4.9.4.C. 1. and 2. These subsections reference additional sections of the LDC, i.e. Article 6, Section 6.2.2.C *Off-Street Parking and Loading, Change of Use*, and Article 11, Section 11.1.5.E.3.a. and c. *Examples: Sales-Oriented and Entertainment-Oriented*, respectively.

The LDC Subsection 6.2.2.C. *Change of Use* is particularly difficult to interpret and appears to be the major area of potential negative impact to the Downtown. It seems that the intent of this paragraph was to grant relief from the off-street parking requirements for buildings that were built prior to October 28, 1968. This point is obvious because research shows that the City of Prescott adopted Ordinance No. 866 on October 28, 1968, which created *Section 5.06 Non-Conforming Buildings and Uses Due to Off-Street Parking Requirement*:

"Existing buildings and uses which are non-conforming only because of off-street parking requirements and which are existent prior to the effective date of this Section of this Code or any amendment thereto, shall not be required to furnish additional off-street parking if the use of said building changes to a conforming use in the district in which it is located; provided, however, if the building is enlarged, Section 7, 10 A shall apply."

It was the intent and policy of the City of Prescott for many years to exempt existing non-conforming buildings, meeting the description of Section 5.06, from the requirements of off-street parking regulations. This ordinance was purposefully adopted to provide incentives to retain buildings in Downtown Prescott for their use and reuse as a tool for economic development.

The 2003 LDC's re-wording of the parking/change of use subsection was confusing, subsequently being interpreted as requiring off-street parking regulations to be met on-site or in an alternative way, except for certain uses specified by Sec 4.9.4.C.2, i.e. retail, restaurants and hospitality-related uses referenced in Sec 11.1.5.E.3.a. and c. This section, in a nutshell, requires parking for offices and residential uses, while exempting parking for many uses which have little or no relation to tourism, hospitality or the vitality of the Downtown.

The major issue at hand is this more recent change requiring parking for use changes within legal non-conforming buildings. This serves as a dis-incentive to the reuse and retention of existing structures and the character of Downtown Prescott.

It is recommended that any action on the proposed amendment be deferred until several sections of the LDC pertaining to parking have been considered for amendment at the same time. This will allow for the creation of consistency and for the removal of conflicting segments.

K:\900\900planning\Planning\Presc ParkingCodes5-07.doc

rec'd 4-26-07
kd

Board of Directors Meeting
Prescott Downtown Partnership, Inc.
April 25, 2007

Regarding In Lieu of Fee for Parking

The following actions were adopted by the board of directors of the PDP Inc. on
April 25, 2007

Issue: In lieu of fee for new construction.

Unanimously adopted.

Issue: Fees to be dedicated to enhancement of downtown parking needs.

Unanimously adopted

Issue 15% discounted fee

Unanimously adopted

Issue: Code Amendment

Unanimously adopted to amend current code to agree with full intent of
prior code at Section 5.06, "Non-Conforming Buildings and Uses due to Off-
Street Parking Requirements."

"Existing buildings and uses which are non-conforming only because of
off-street parking requirements and which are existent prior to..., or any
amendment thereto, shall not be required to furnish additional off-street parking if
the use of said building changes to a conforming use in the district in which it is
located; provided, however, if the building is enlarged....." (new code
requirements shall apply).



rec'd
4-26-07
kd

April 26, 2007

To: Uniform Development Code Committee
Fr: David Maurer, CEO *DM*
Re: Chamber Recommendation for In-Lieu Parking Fee Proposal

These three points represent the final policy position on in-lieu parking fees as adopted by the Chamber's Board of Directors:

- 1) We agree with providing the option of a "fee in lieu of parking" in the Downtown Business District.
- 2) The proposed fee should be offered as an alternative to providing a required number of parking spaces. The fee should be set at up to a 15% discount from an amount equal to the industry standard for providing a space in a parking structure.
- 3) Any in-lieu fees collected by the City should be placed in a dedicated fund that will only be used to address future parking needs in the DBD.

PRESCOTT CITY COUNCIL
SPECIAL MEETING
(EXECUTIVE SESSION)
FRIDAY, SEPTEMBER 24, 2010
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL MEETING (EXECUTIVE SESSION) OF THE PRESCOTT CITY COUNCIL held on FRIDAY, SEPTEMBER 24, 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 1:30 p.m.

◆ **ROLL CALL:**

Present:

Absent:

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

Councilwoman Linn

1. Recess into Executive Session.

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

The Prescott City Council recessed into Executive Session at 1:30 p.m.

2. EXECUTIVE SESSION

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

i. Elks Theater Management.

3. Adjournment.

The Prescott City Council reconvened into Open Session at 2:34 p.m. at which time the Special Meeting of September 24, 2010, adjourned.

MARLIN D. KUYKENDALL, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

PRESCOTT CITY COUNCIL
WORKSHOP
TUESDAY, SEPTEMBER 28, 2010
PRESCOTT, ARIZONA

MINUTES of the Prescott City Council Workshop held on September 28, 2010 in the City Hall Council Chambers, 201 South Cortez, 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
Councilman Lopas
Councilwoman Suttles

ABSENT:

None

1. **Presentation/Discussion on Prescott Wastewater Master Plan.**

Public Works Director Mark Nietupski said that they were there today to discuss completion of the Sundog Wastewater Treatment Plant (WWTP) and the Airport Water Reclamation Facility (WRF).

He said that they would first review the information provided previously at the December 9 Workshop and the latter part would address biosolids, local limits and an option for centralized treatment to be considered in the future. The Wastewater Treatment Plan project has been identified for filling immediate needs with respect to wastewater treatment process, equipment deficiencies and insufficient capacities at both facilities. The projected costs to meet the needs were significant, but it was imperative that the City move forward with engineering and implementation of improvements to assure the continued provisions of service now and in the future which complies with Federal and State regulatory requirements.

He then introduced Brad Hempkin of Black & Veatch and Mark Courtney of Carollo Engineers. He said that both firms have particular experience in wastewater treatment and participated in the project.

Mr. Hempkin then gave a PowerPoint presentation, Exhibit A attached hereto and made a part hereof, which addressed the following items:

- ▶ SCOPE OF WORK COMPONENTS
- ▶ EXISTING WWT FACILITIES
- ▶ BUILD-OUT CAPACITIES BASED ON ADOPTED LAND USE PLAN & WAAPA
- ▶ SUNDOG WWTP
- ▶ AIRPORT WRF
- ▶ COMMON WASTEWATER TREATMENT PROCESS
- ▶ INCREASED WASTEWATER STRENGTH IMPACTS EXISTING PLANT CAPACITY
- ▶ CURRENT SUNDOG WWTP CAPACITY
- ▶ ESTIMATED DURATION OF EXISTING SUNDOG WWTP CAPACITY
- ▶ CURRENT AIRPORT WRF CAPACITY
- ▶ EXISTING AIRPORT WRF CAPACITY IS INADEQUATE
- ▶ TREATMENT ALTERNATIVES CONSIDERED FOR BOTH PLANT EXPANSIONS
- ▶ SUNDOG WWTP NEAR TERM IMPROVEMENTS – CONDITION & PROCESS ENHANCEMENT

Mr. Hempkin said that there had been no real improvements at the Sundog plant for 19 years and there were some conditional and process improvements needed.

Councilwoman Suttles asked if it was normal to not have anything done for 20 years at a facility. Mr. Hempkin said that there had been no major project at the facility for that length of time. He said that a 20-year planning horizon at a facility like that was common. He said that over 20 years there are problems occur that need to be addressed.

- ▶ SUNDOG WWTP PHASED EXPANSIONS
- ▶ SUNDOG WWTP EXPANSION TIMING

- ▶ AIRPORT WRF PHASED EXPANSION
- ▶ AIRPORT WRF EXPANSION TIMING
- ▶ BIOSOLIDS MASTER PLAN
- ▶ BIOSOLIDS TREATMENT AND DISPOSAL
- ▶ CURRENT LAND APPLICATION SITE AND LANDFILL
- ▶ BIOSOLIDS MANAGEMENT ALTERNATIVES
- ▶ BIOSOLIDS MANAGEMENT ALTERNATIVES

He said that their recommendation was to stay at status quo.

- ▶ BIOSOLIDS TRENDS & OPPORTUNITIES
- ▶ TECHNOLOGY BASED LOCAL LIMITS STUDY
- ▶ FATS, OIL, GREASE (FOG) IN COLLECTION SYSTEM
- ▶ GREASE AT THE WWTP
- ▶ MASTER PLAN CONSIDERED CENTRALIZED TREATMENT ALTERNATIVE
- ▶ WASTEWATER CONVEYANCE
- ▶ LIMITED SUNDGOW WWTP IMPROVEMENTS
- ▶ PHASE 1 AIRPORT WRF EXPANSION TO 3.75 MGD PROVIDES MAJOR BENEFITS
- ▶ AIRPORT WRF WITH CENTRALIZED TREATMENT
- ▶ CENTRALIZED TREATMENT DECISION POINT DICTATED BY PROJECTED LIFE OF EXISTING SUNDGOW WWTP – 2016
- ▶ LIFE CYCLE COST COMPARISON – CENTRALIZED VS. DECENTRALIZED WWTP

He said that the recommendations were to keep the options open and postpone the decision.

- ▶ SUMMARY OF THE MASTER PLAN RECOMMENDATIONS

▶ 5-YEAR CIP EXPENDITURE

Mayor Kuykendall said that the City has effluent commitments from the Sundog Plant to golf courses. He asked if they went to centralized treatment if they would lose that capability. Mr. Hempkin said that they would not. They would maintain their ability to provide effluent. He said that the system maintains the ability to deliver reclaimed water to Prescott Lakes.

Councilwoman Suttles referred back to Slide 35, regarding the 5-year Capital Improvement Plan. She said that there was a huge jump in 2011 and by 2015 it was done. She asked if that was where they were right now, or if it was a planned design of where they would be. Mr. Nietupski said that the CIP in place for wastewater treatment facilities does incrementally increase as shown on the chart. He said that it does ramp up with design being completed and improvements being done over a three-year process.

Councilwoman Suttles asked if they have the financing to do the improvements. Mr. Nietupski said that it was part of the utility and wastewater rate analysis. He said that the approach was to leverage or borrow money to do the improvements and then the debt would be paid through the rates.

Councilman Lamerson said that he appreciated the presentation. He asked Mr. Hempkin if he said that every 20 years they need to look at something like this. Mr. Hempkin said that it was purely a case by case basis, but a 20-year planning horizon for a major infrastructure was not uncommon. That does not mean to say that communities do not go back and revisit facilities, but right now they were in a slow-growth economic cycle.

Councilman Lamerson said that it appeared that the growth may not be as relevant as the use. They had deterioration on facilities simply by the nature of the beast. It sounds like the community has to continually plan, regardless of whether they have growth, to keep up the facilities. If he heard correctly, the wastewater was an enterprise fund. They would borrow the money for the infrastructure and those monies would come back through the users' rates.

Mr. Nietupski said that was correct. Councilman Lamerson noted that the monies collected could not be spent somewhere else; it had to take care of the capital improvements. Mr. Nietupski said that was correct. Councilman Lamerson said that the public needs to understand that they need to pay for it.

Councilwoman Linn said that in the presentation it was stated that they could not get to the capacity at the Sundog Plant because of the conservation efforts, which were typical in the southwest. She asked if they were assuming that they would continue the conservation efforts. Mr. Hempkin replied that they did.

Councilman Blair said that they had standards that they had to live by today with ADEQ. He asked if there was a project put into the ultimate plant design for 20 years of upgrading with new standards, whether to deal with pharmaceuticals or other unknowns. Mr. Hempkin said that at both plants they had identified an area reserved for potential future facilities. He said that the Master Plan talks about the potential for emerging contaminants being regulated in the future and they will monitor it. They will have a place at the facility for future regulations to treat them at the site.

Councilman Blair asked if they had the highest technology out there. Mr. Hempkin said that they did. He said that the prudent thing is to strike an economic balance with what regulations they have today, with foresight as to what they may be in the future.

Councilman Blair asked if the ponds were always part of it. Mr. Hempkin replied that they were. It has been accounted for in the recommendation for both sites as well. He said that in terms of a combination of on-site flow equalization for today's condition and for increased flows in the future, they focused on the collection system and tightened up the collect system to remove future contaminants.

Councilwoman Linn clarified that the Sundog Plant handles mostly the older, developed parts of the City and it had not had major changes in 21 years and was their top priority. Mr. Hempkin said that they have a priority need for additional treatment capacity at the Airport plant. The Sundog needs goes back to upgrading some of the facility due to the life of the facility.

Mayor Kuykendall said that this only accounted for wastewater treatment plant expansion. They still have the ongoing battle off trunk lines, etc. Mr. Nietupski said that was correct. The costs associated with the Master Plan are specifically related to both plants. Costs associated with improving trunk mains and manholes are identified directly in the CIP and were not in the numbers being discussed today.

Councilman Lamerson asked where funding was contemplated for those items if it was not in the rate structures. Mr. Nietupski explained that the improvements to the collection system are contemplated in the CIP for wastewater treatment. Both are contemplated in the rate analysis.

John Zambrano, Prescott, said that a diagram was shown that indicated that the wastewater contaminants were increasing by 2-3 times and it was attributed to conservation. He has looked at the wastewater on a per capita basis and found that it has not decreased over the past seven or eight years so conservation could not be the cause in the levels of the contaminants. He said that most has been outdoor conservation which has not had an effect on the wastewater levels.

Councilman Blair said that they had a conservation person that said that 25% of the savings in conservation is directly attributed to some of the problems they were having at the waste plant. Mr. Zambrano said that he has provided her and Jeff Low with the analysis of the effluent. When she was talking about the 25%, it also included the outdoor conservation and that does not affect the wastewater treatment plant.

Mr. Hempkin said that conservation is not the only thing. They do find wastewater strengths increasing and in a lot of places it is significantly contributed to conservation, but it was not the only element. It also has to do with lifestyle, such as more garbage disposals, etc. The burning issue is that the strength has increased. He said that in the big balance, conservation is a good thing, and he did not mean to paint it in a negative light.

Councilman Lamerson said that he did not think that when their Water Conservation person was talking to them that it was directed at conservation; it had to do with consumption and occupancy rates.

Councilman Blair said when he sat in the sewer camera truck and saw the number of fractured pipes they had in the system only one could imagine that they were using a lot of water volume through the system that is inadequate to carry that volume. When they add in the amount of water saved through conservation, the number of vacancy rates, an old infrastructure system, etc. it is hard to move the solids.

Ken Janecek, Prescott, said that the last time Black & Veatch gave a presentation he had some questions and wrote a six page letter asking for clarification. He said that one of the points was to the issue of the strength. They were talking about spending \$40 million and he asked if it was necessary to do that now. He has not had any of those questions answered today or any explanation of why they were not relevant. He was raising those questions again to hope that they could be addressed.

He said that Fats, Oil and Grease (FOG) were identified as one of the problems. He asked how much of the commercial FOG was coming through because it was not properly monitored and how much that would reduce the waste strength if they monitor it. He asked if that would delay the project for several years and give them more time to accumulate more money.

He said that the sewer lines themselves were a big problem. He asked what the impact would be with improving the sewer lines. He asked if that would delay the project.

He said that he had also presented questions about optimization, and how much it would cost to do some chemical optimizing.