COUNCIL WATER ISSUES COMMITTEE
REGULAR MEETING
TUESDAY, MARCH 31, 2015
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF COUNCIL WATER ISSUES COMMITTEE HELD ON MARCH 31, 2015, in the LOWER LEVEL CONFERENCE ROOM, located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

A. Call to Order.

Chairman Arnold called the meeting to order at 10:00 A.M.

B. Roll Call.

COUNCIL WATER ISSUES COMMITTEE MEMBERS:

PRESENT:	ABSENT:
Chairman Charlie Arnold Member Jim Lamerson	Member Steve Blair – absent/excused

Staff present:
Craig McConnell, City Manger
Jon Paladini, City Attorney
Leslie Graser, Water Resource Manager
Annikki Chamberlain, Water Resource Coordinator
Kim Webb, Deputy City Clerk

C. Approval of minutes of the February 10, 2015, Committee meeting

MEMBER LAMERSON MOVED TO APPROVE THE MINUTES OF FEBRUARY 10, 2015; SECONDED BY CHAIRMAN ARNOLD; PASSED UNANIMOUSLY.

D. Request for a second water meter for the McConaughy lot split located outside City limits

Leslie Graser refreshed the committee as to the work that had been done on the property and an explanation of the City requirements related to water. She noted that the property was in the County and in December 2005, the property was split and the owner was seeking a second meter for the property. There was an agreement No. 75, but no map attachment showing which lands were related. Staff looked for a bill of sale on the line itself, which was then transferred to the map. She said they narrowed down what was fed off of the main stem and who was on that stem.

Ms. Graser talked about the historic water agreements in the area and contracts for water supply. She noted that when they took the meters off that did not seem to apply, there were 104 connections on the line and its arteries. She then showed the 75 meters not in City limits. Each year the City had to provide a report to the State of Arizona regarding their customer count, based on meters. She noted that every time a meter was set, the City had to show where the water was coming from - groundwater or alternative water. She said it was not a good idea to write a water service agreement without a basis for water supply.

Chairman Arnold asked when line agreement 46 and service agreement 58 were entered into. Ms. Graser said it would have been in the 1970's.

Chairman Arnold talked about the combining of the original lots and the re-split around 2004 and 2005. Ms. Graser said City records contained information for an existing meter that was on the property dating back to 1976. County records showed several spits and combinations over time. In 1971, APN 11103156 consisted of lots 298, 299, 300, 301, and portions of 302, 324 and 325. She said 324 was part of what he McConaughy's currently had. In 1971 only in relation to 156J, there existed two, single-family residential units. One was built in 1966 and the other in 1969. Ms. Graser understood that there was another, older rock building on the property. It was noted that in 1971 it was all one parcel. Another customer on the account was noted in 1976. Per Prescott City Code 2127, customers were not to supply water to others, which dated back to 1976. She said there were issues at that time. In 1973, the parcel ending in 156 was split into 156 and 156B and in 1978 a single family residential structure was built. Water being supplied to the structures was a violation of City Code. In 2005, parcel 156 was combined with 156D to form 156G.

Chairman Arnold asked about the lots in 2004. He asked if the lot in question would have met the City's requirements for an additional meter. Ms. Graser said the City would have had to see if there was an entitlement for another water supply. She said the property owners would have been in the same situation then as they were now.

Member Lamerson said he realized that the McConaughy's had no legal standing for water. He also saw where the City asked them, repeatedly to stop. He asked if it was just ignored. Ms. Graser noted that the City told them they could not supply a second meter. She said the City would not have seen the split occurring through the county. If the lot were in the City limits, the lot split would have been addressed. Member Lamerson noted that the code said there could only be one single-family residential unit per meter.

Chairman Arnold said that was done by a previous owner and the current owner had acquired the property in 2004.

Member Lamerson asked if there was a mechanism in place to bring the property into compliance. Chairman Arnold noted that staff was saying there was not a mechanism; it would require a Council determination to enter into a water service agreement and figure out how to allocate the water. He noted that it was a complex issue. There were two parcels being served by one water meter and the best way to resolve it was to install

another water meter at the owner's expense and have the owner pay for the privilege to have access to the water. He said the history of the property was vague and difficult. He noted that something was done in the 1970's that was not supposed to be done.

Member Lamerson said it was not reasonable to deny people access to water that the City had been serving for 50 years. Ms. Graser said the City could only send so much water out of the City limits. She noted that there were many lots with multiple structures, in the County, that the City would not have seen. She could only offer her recommendation based on legal documents.

Chairman Arnold said, according to the documents, one of the properties was in violation because it was receiving water from another property. He asked what the City would do if it was just looking at that issue. Ms. Graser thought it would be termination of service and said she was not the legal expert.

Jon Paladini, City Attorney, said if there was a policy issue to serve the lot with a separate meter, there should be an exemption. The exemption would state that upon a majority vote of the City Council, upon a showing by sufficient evidence that the strict enforcement of the section, of no additional water service outside the city limits, would create permanent hardship on the property, the City Council may waive the restrictions set forth in the paragraph. The most direct solution would be a two step process. The committee would recommend a code amendment to the Council, the Council could adopt an ordinance amending the code allowing for a waiver and then the property owner would come to Council to show the hardship to the Council. He said the Council would vote. The remaining issue would be from what source the water would come.

Ms. Graser said it would have to come from alternative water. She said the City would have to prove how they acquired water to serve the property.

Mr. Paladini said if there was a case by case waiver process, he did not think it would open the door for a flood of applications. He said the City could balance the property owner's hardship against the City's hardship to provide water.

Leslie Graser, Water Resource Manager, noted that the City had to meet all of its commitments. She noted there were potentially 66 more connections where there would not be return flows of sewer supplies.

Member Lamerson said the agreement would not increase water consumption, the City would just add a meter.

Chairman Arnold said it would be prudent to draft a water service agreement, in line with the recommendations that would be coming from the policy change and put the specifics of the parcel in that agreement.

Mr. Paladini said staff would draft a code amendment for Council consideration.

Jeff Adams, representing the McConaughy's, said his clients would be in the position to make concessions and place limitations that would make a water service agreement palatable. They would agree to deed restrictions that would preclude additional structures on the property that would need water. He said if the water allocation in the City became impaired in an emergency situation, his clients would agree to cut off their water, until the water in the City of Prescott was restored.

MEMBER LAMERSON RECOMMENDED TO MOVE THE INFORMATION TO THE COUNCIL BODY AS A WHOLE FOR DISCUSSION; SECONDED BY CHAIRMAN ARNOLD; PASSED UNANIMOUSLY.

E. Thresholds for the approval of water service agreements

Leslie Graser, Water Resource Manager, noted that on February 10, 2015, the Water Issues Committee discussed the topic and determined that the current process should remain in effect, with the addition that updates on allocations approved administratively are provided to Council.

Additionally, since Water Resource Management was located in the City Manager's Office, it was recommended that the policy be amended to provide administrative approval by the City Manager in-lieu of the Public Works Director.

MEMBER LAMERSON MOVED TO RECOMMEND THE NEW PROCESSES; SECONDED BY CHAIRMAN ARNOLD; PASSED UNANIMOUSLY.

F. Policies and procedures for acquiring Assured Water Supply

Ms. Graser said the question was how to increase assured water rights. She noted that there were surface water rights or ground water rights. When the City acquired Chino Valley Irrigation District (CVID), the City acquired both surface water rights and irrigation grandfathered rights. There was a certain process through the Department of Water Resources used; an extinguishment of grandfathered rights that were pledged to the City and a formal sever and transfer of surface water. She said all assured water supply was in terms of a 100 year water supply.

She showed a chart of extinguished water rights pledged to the City. There were also many water rights extinguished, but not pledged to the City. She said that there was not much grandfathered water available.

Chairman Arnold said the cost of water was $180.00 - $220.00 per credit. He said an acre foot was $18,000.00 to $22,000.00 for a hundred year supply.

Mr. McConnell asked if the policy matter was to clarify under what circumstances the Council would entertain parties bringing water credits. He said he could think of situations where the City may not want to accept water for additional units or for property that did not have water associated with it. He said he would modify the last

sentence on the Water Management Policy "*if a developer proposes to build more units than the Council will allocate water for, the developer may propose bringing additional water rights and/or credits to the City in order to serve the additional demand, which proposal the Council may consider, but not be obligated to accept.*" Mr. McConnell said it would be consistent with each development and annexation being looked at on a case by case basis. He said there was no entitlement to have land annexed into the City.

Chairman Arnold said he perceived the issue of someone coming to the City with water, but wanted to be annexed in and the City would have to pay a certain amount to build an infrastructure. He said if they met the current criteria, the City would have a hard time not annexing them. He would not have an objection to adding the suggested wording and suggested that City consider the requirement of someone to bring a portion of the water with them. He was concerned that that the City did not have the water to service all of its obligations.

Member Lamerson said there was value to Proposition 401 and just because somebody wanted to bring their property into the City, did not mean, from an infrastructure standpoint, that the citizens of Prescott could absorb the cost. He said water was only one part of it.

There was a discussion about annexation and zoning.

CHAIRMAN ARNOLD MOVED TO FORWARD THE AMENDMENT TO THE COUNCIL; SECONDED BY MEMBER LAMERSON; PASSED UNANIMOUSLY.

G. Identification of topics for the next Committee meeting

Leslie Graser noted that an ongoing topic was that of connection to the sewer system. She said the City was off balance sending more water out than in was capturing back. It did not work with the recharge and recovery framework. The other topic was drilling within 100 feet of the system. She said it had been an issue since 2006 and needed to be addressed.

Chairman Arnold noted that the state exemption was being abused by some people. He said some of the well drilling companies were skirting the issue with their clients. He noted that tightening up the code would be viable.

Member Lamerson said some people wanted to drill wells for irrigation and he noted that the state was violating some of its own water management strategies.

Member Lamerson said he would like to talk about the water quality in the reservoirs and the anticipated costs at the next meeting.

Chairman Arnold said he would like to meet within 60 days.

H. Adjournment

There being no further business to discuss, the Water Issues Meeting was adjourned at 11:12 A.M.

CHARLIE ARNOLD, Chairman

ATTEST:

KIM WEBB, Deputy City Clerk