

WATER ISSUES COMMITTEE
REGULAR MEETING
TUESDAY, August 18, 2015
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF COUNCIL WATER ISSUES COMMITTEE
HELD ON AUGUST 18, 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 10:32 a.m.

B. Roll Call

Present:

Chairman Charlie Arnold
Member Jim Lamerson

Absent:

Member Steve Blair absent/ excused

Staff present:

Craig McConnell, City Manager
Leslie Graser, Water Resources Manager
Jon Paladini, City Attorney
Kim Webb, Deputy City Clerk

In attendance:

Leslie Hoy, Citizens Water Advocacy Group
Dan Wilson, trustee profit sharing plan
Sal Lutey, trustee profit sharing plan
Audra Farnsworth, investor
Gary Franks, Managing Member, Hidden Heights LLC

B. Approval of minutes of the June 30, 2015, Committee meeting

**MEMBER LAMERSON MOVED TO APPROVE THE WATER ISSUE COMMITTEE
MINUTES OF JUNE 30, 2015; SECONDED BY CHAIRMAN ARNOLD; PASSED
UNANIMOUSLY.**

C. Request for water service outside of City limits for 37 units on APN 115-02-004C

Leslie Graser showed a map of the property in question which was outside the City limits. She noted that Hidden Heights was the owner of the 42.1 acres. The area had an historic water agreement called the Iron Springs Agreement. The agreement did not specify the

quantity of water to be served. She said there were not many more connections the City could make related to the document.

Ms. Graser said Ms. Farnsworth contacted the City July 8, 2015, requesting an updated letter, shown on an overhead, regarding the subdivision and how it might be served in the future. Staff reviewed the situation and spoke with the legal department. She said there was an informal meeting and the City's decision stood from that meeting and that water outside the City limits was addressed in the City Code 2-1-8. Although it was an historic agreement, it did not quantify the amount of water served, number of connections, or the reserved water necessary for providing service in the future. She noted that the letter was not a contract. In absence of a Water Service Agreement, the City's obligation under City Code 2-1-8C was water service for one residential unit.

Ms. Graser said the City responded to a similar situation in the Shadow Valley Ranch area. There was a 50 acre parcel, subject to City Code regarding one connection. The property owner made splits, one of the properties was still owned by the original person who maintained the one connection. She said the City would not be able to serve the other properties and their option was to drill a well.

Gary Franks said the LLC was formed to acquire and develop the property. He noted that 32 individuals and two local pension plans had subscriptions with the LLC. Before the property was purchased, it was investigated for water availability. When the \$2 million changed hands, it was with the understanding that they had assurances from the City that water would be available. The assurances took the form of three different letters written over a period of two years, after the 2005 ordinance went into place. He said they preceded with the development the best they good, but the visionary for the project, Rex Van Wormer, passed away and the housing market went south. The bank called the construction loan, which they issued on the strength of two different appraisals, both of which sited that the City's letter provided water.

Mr. Franks said they were now in the position to develop the land with new money. He proposed the City might be inclined to consider them as fitting under the Number 1 exemption to the Code, which would allow them to have "contractual status". He said, when looking at the Iron Springs Water District, that was how the City historically treated it, for almost 50 years. Because of the Iron Springs improvements they should be included in the water budgets; he felt it was evident in the three letters. He said they relied on that information.

He proposed that they take the 50 acre parcel and apply for annexation to the City so they could make a positive contribution to the City.

Audra Farnsworth passed out the packet with supporting documentation to members and staff present.

Chairman Arnold asked if property was contiguous to City limits. Ms. Graser said it was not.

Audra said they just purchased an additional 5 acres to allow an addition ingress and egress.

Chairman Arnold asked about the three letters as backup. Ms. Graser noted that there were letters dated March 22, 2006, July 24, 2006 and August 21, 2007. She showed the members the March and July letters.

Chairman Arnold asked what role the Water Allocation Committee played in that time frame.

Ms. Graser said they may have looked at various projects before taking them to Council. The next step would have been to go to Council to secure a contract for water. Within the City's Alternative Water Budget, she thought 2009 was the first documentation where the City made a reservation for historical agreements; that was for 57 acre feet. Agreements including Prescott Riviera, Iron Springs, Ewien and Rancho Vista were under current review. She said the City did not have the room within the 57 acre feet to meet what was out there.

Mr. Franks said a number of areas had been built out. Historically, whatever was zoned was provided with water. He said that based on the agreement, they were under the impression that whatever they got zoned was what they would get water for. He noted that a lot had changed between 2007 and the current time and they were respectful of that. He said the development would be a good addition to the City to attract the high-end homeowner.

Chairman Arnold said there was a conceptual layout with 65 lots.

Mr. Franks said they were bringing a representation of what could be zoned. He said they were not demanding water for 65 units or 1.3 units per acre. He asked if an annexation could provide them with additional acre feet.

Ms. Graser noted said there would be a challenge to bring in other property between the discussed land and the City property to make the lot contiguous for annexation purposes. As of January 2015, staff brought the condition of the City's water portfolio to Council and when she looked back into the 2000 time frame, the City was modifying their water portfolio and Decision and Order with the state. She said there was no Big Chino Water to serve any agreements, currently. The Prescott Active Management Area and the City, as of 1998, could not grow on ground water any more. Alternative supplies were sought. She noted that the Big Chino was an alternative and the other options already had surface water as part of the portfolio, through Watson and Willow reservoirs. The last alternative would have been the treated effluent supply. In the current Decision and Order, a housing boom was projected with connection to reclaimed supplies that did not occur. There were currently challenges within the Alternative Water Supply. The City had to work with what they knew and the future was challenging. She said there was an old 1965 agreement with letters but no contract to hold the alternative supplies.

Mr. Franks said the developer took the development expertise with him when he died. He was unable to carry on with the water service agreement, which he had started.

Mr. Franks asked for the City's favorable consideration.

Chairman Arnold said his preference was to table a recommendation and have another meeting of the Water Issues Committee to include an executive session to discuss legal issues regarding issues that had been raised.

D. Adjournment

There being no further business to be discussed, the Water Issues Committee meeting of August 18, 2015, adjourned at 10:57 a.m.

CHARLIE ARNOLD, Chairman

ATTEST:

KIM WEBB, Deputy City Clerk