

PRESCOTT CITY COUNCIL
STUDY SESSION MEETING
TUESDAY, APRIL 19, 2016
PRESCOTT, ARIZONA

MINUTES OF THE STUDY SESSION MEETING OF THE PRESCOTT CITY COUNCIL
HELD ON APRIL 19, 2016, in the COUNCIL CHAMBERS located at CITY HALL, 201
SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Oberg called the meeting to order at 1:00 p.m.

◆ **ROLL CALL:**

Present:

Absent:

Mayor Oberg
Mayor Pro Tem Lamerson
Councilman Blair
Councilman Lazzell
Councilwoman Orr
Councilman Sischka
Councilwoman Wilcox

I. DISCUSSION ITEMS

- A. Update on Upper Granite Creek Watershed and Watson Lake TMDLs and Stormwater Quality Monitoring Plan

Charles Andrews, City Engineer, presented. He showed a powerpoint presentation that included the following information.

- Background
- Map
- Action Plan

Mr. Andrews said part of the contract included five tasks. Task 1 was an action plan for development of a lake management plan. Task 2 was the review of the final upper creek/granite creek *E. Coli* TMDL, which had been completed. Task 3 was to develop a stormwater quality monitoring plan, which would be completed in October 2016; and Tasks 4 and 5 of the contract were future items.

- Action Plan Overview– Dr. Latimer with AMEC

Mr. Andrews introduced Dr. Ed Latimer with AMEC Foster-Wheeler.

Dr. Latimer referred to the five different action plans that were identified as part of the contract, which addressed the two TMDLs. The TMDL for the reservoir was for nutrients and PH issues, and the other was for *E. coli*.

Dr. Latimer said after completion of the lake water quality monitoring plan and building of the watershed model they would proceed to the next phase and use the data that was obtained in the first effort to build and calibrate the model. The model could be done on the lake side as well as on the watershed side, which would show the response and results for an action management plan for the watershed. The third and last phase for the reservoir would be the development of a management plan for the lake based on the model using the reservoir model. The final product of that effort was the implementation plan.

- Watson Lake Reservoir TMDL
- Water Quality Data Monitoring Plan

The first action that needed to occur was to define what needed to be done. That effort could take 15-18 months to complete in order to have a minimum of one-year of data collection.

- Reservoir Model

Dr. Latimer said that once the data was collected it would be used to build the simulation model, which would take four to six months to develop the lake characteristic of the reservoir. This would show how to best implement solutions for the lake using the most cost efficient manner.

- Reservoir Management Plan

Dr. Latimer said the development of the management plan was the last step. The scenarios like dredging the lake or partially dredging the lake would show the impact. After this was completed for all three actions related to the reservoir, there would be a plan that could be taken to ADEQ. He said the City was required to present a plan to ADEQ detailing what would be done.

- Upper Granite Creek Watershed TMDL
- Watershed Models

Dr. Latimer said there was an ongoing effort related to the watershed, which was the water quality monitoring plan that was being developed of the discharges from the City to the watershed. That was the data used for the model of the watershed. Once all the data was collected, the watershed models could be built. He explained why there were two models. One of the models, LSPC was a full hydrological model for water runoff. It was critical because it showed volumes and rates at various points along the watershed.

SIMPTM was a very detailed water quality model. Dr. Latimer said because it was a study the rates and volumes from one model would be used to build into the second

model, for the true water quality aspect of the study. He added that process could take 6-12 months.

- Pollutant Reduction Plan

Dr. Latimer said with a model built then an analysis of the alternatives could be done. The model would allow the study of the impacts of management actions that were taken for nutrients that were flowing into the lake. What came out of the model, in terms of flows, would feed into the lake model. He said that the model would allow them to study how efforts in the watershed had an impact on the nutrients that would flow into the lake.

- Action Plan Summary

Dr. Latimer said that the two models that would be developed were the tools, one for the watershed and one for the reservoir. This would allow for the feasibility of what was done and the achievement of reductions.

- Action Plan Schedule
- Going Forward

Mr. Andrews proposed that the Action Plan be presented in July 2016, with more information on Tasks 4 and 5. He said the TMDLs would required continuous monitoring of the watershed and reservoir. Implementation of projects for reduction of the nutrients and *E. Coli* would be done, and the cost would become known and brought back to the Council for discussion.

Councilman Sischka said he knew monitoring the *E. Coli* levels would be done from the watershed, but he wondered what was the source of the *E. Coli*.

Dr. Latimer responded that it was from the entire watershed, and it was not certain what the *E. Coli* was from, but that was what the management practices would reduce. He added that the sources could be animal or human, but those might not be the only sources.

Councilwoman Wilcox asked if communication with ADEQ would occur as the model was developed, in order to know if it would be accepted by them. Dr. Latimer replied, yes. He said ADEQ knew that the model needed to be built. As soon as the model was developed, coordination and consultation with the regulatory agency would occur.

Councilwoman Wilcox asked if they knew which nutrients the data collection would target. Dr. Latimer said specific to the reservoir, the two that were critical and would be focused on were nitrogen and phosphorous.

Mr. Andrews added that monthly updates were provided to ADEQ.

Councilwoman Orr asked if there were ideas on where the *E. Coli* had been coming from, and if it could be fixed now rather than wait 2½ years. Dr. Latimer said that could be done.

Councilwoman Orr thought there were things done with the rodeo grounds watershed, and wondered why there would be a wait if there was something that could be done sooner. Mr. Andrews said they were aware of the *E. Coli* at the rodeo grounds and an in-house design for the sedimentation virus well had been done. He noted that Acker Park was another area of potential *E. Coli* and that something could be done.

Mayor Oberg thanked them and concurred that the project would take 2½ years in order for the costs to be known.

B. Introduction and discussion of the draft Alternative Water Allocation Policy for the remainder of Calendar Year 2016

Leslie Graser, Water Resources Manager, presented. She showed a powerpoint presentation which included the following information.

- Recent milestones
- Key Points of the Policy

Ms. Graser said the background information being presented was for clarification. She said that it was important to note that the policy would be in affect from the date of adoption and run through December 31, 2016. She said the policy was only applicable to the alternative water supply, not the groundwater side of the portfolio.

Ms. Graser said the City was the only community within the State defined as an Active Management Area (PrAMA), which had a designation of Assured Water Supplies. She said that meant her predecessors worked hard to bring together a portfolio to the City that was recognized as an assured water supply according to State law. The City was the only community in the PrAMA that had surface water, reclaimed supplies, and future imported supplies from the Big Chino Sub-basin.

- Temporary Suspension-Background

Ms. Graser said after lifting a temporary suspension it was good practice to have a policy that went with it that gave direction. The issues related were limited supplies in the alternative side of the portfolio, many of which had been contracted or reserved, but some were unused. There was an imbalance between the water served and wastewater being returned to the treatment plants. She said that the City had worked with their neighbors and extended City water lines outside City limits, some not having sewer infrastructure that returned the water. She added the importance of this according to State law and that they had moved Arizona into a recharge and recovery pattern.

She said restricted or unavailable supplies of reclaimed water were subject to Proposition 400, which looked at having supplies permanently recharged for developments of 250 acres or more.

- Work Plan (Resolution Nos. 4310-1519 and 4315-1524)

Ms. Graser said the work plan was outlined in the Resolution. The City had continued to administratively approve projects of three units or less for which a building permit had been filed. She said the current applications, referred to as Exhibit A, were attached to the original Resolution and those projects had moved forward. Ms. Graser said that there had been no requests for Chino Valley Irrigation District IGA projects, and the IGA was not affected by the suspension.

Ms. Graser talked about the transfer of 200 acre-feet of supplies from the Reservation of Vacant Residentially Zoned tracts, which was an accounting transfer that needed to be made and documented.

Councilman Sischka asked about the difference between a lot and a tract.

Ms. Graser responded that there were many questions related to water supplies for lots. She explained that the City had many subdivisions that were all recognized for groundwater supplies. If the subdivision had two, three, or ten lots within it that remained vacant and not built on, it was covered by groundwater. A tract was different, it was un-subdivided. She said there were smaller and larger tracts within the City limits that were not within a final platted subdivision.

- Allocation of Alternative Water for Calendar Year 2016 - The Draft Policy Document

Ms. Graser stated that the policy was divided into six sections with focus on Section 4. She added that within Section 4 the policy needed to have overall requirements on how Exhibit A was addressed. Exhibit A was the list of projects put on temporary suspension. She said Section 4 was divided into three categories.

Ms. Graser talked about workforce housing, ownership or rental. She referred to the breakdown in the document.

Councilwoman Wilcox asked about the overall requirements regarding workforce housing. She read from the statement in the policy and asked what the word “available” meant; did it mean they qualified for bank financing or was it open for offers.

Ms. Graser responded that the definition had been a challenge. She thought the best that could be done was to have the policy looked at for workforce housing and to determine how it could be allocated out, for home ownership or also for rentals.

Ms. Graser continued with Attachment 3 – Workforce Housing, and showed the definition per City Code.

Ms. Graser highlighted and introduced Sections 1 through 3 of the Draft Alternative Water Allocation policy document.

Ms. Graser said Section 4 - City Water Management Policy gave the background and listed the factors that led to the need for the present policy. She introduced the three categories in Section 4.

Ms. Graser outlined the policies associated with Category 1: Overall Requirements.

- Policy 1A and 1B were stated in previous policies for allocation purposes and had been kept.
- Policy 1C was a water demand analysis. This was a shift from the previous policy which spoke to usage of more than a five acre-feet, a water service agreement needed to be discussed on the commercial side.
- Policy 1D a slight change had been made, as it was a site plan application.
- Policy 1E was new and addressed a one-time extension that could be requested.
- Policy 1F was to clarify where water supplies would be put back into the checkbook.
- Policy 1G was lot splits for existing subdivisions of ground water supplies.
- Policy 1H alternate water supplies would not be allocated for uses that would not return 50% or more wastewater to the treatment plants. This addressed the charge and recovery.
- Policy 1I looked at a project that exceeded the quantity of water available, the City would accept extinguished grandfathered rights.
- Policy 1J any unallocated water remaining in the pool as of December 2016, may be considered by Council in setting the 2017 water budgets.
- Policy 1K "Workforce Housing" - consistency through the document was needed with home ownership only, or home ownership and rental properties that could seek water supplies.
- Policy 1L was within the Resolution.
- Policy 1M Water Service Agreement Applications would expire one (1) year from the date of the application. In the past, an application was pulled and waited on and if no action had been taken within the year it expired.

Councilman Lazzell asked if this would include commercial zoned property. Ms. Graser answered, yes.

Ms. Graser talked about Category 2: Exhibit A Projects. She said the General Pool Balance was 479 acre-feet. It was recommended that 100 acre-feet be set aside to meet the contractual obligation, and 55 acre-feet be set aside to support Embry Riddle's seven-year plan. With those two volumes subtracted, a remaining pool of 324 acre-feet would be provided.

Ms. Graser said the remaining 324 acre-feet was broken down into three categories: Market, Workforce, and Commercial. She noted that the previous City policies had market and workforce as categories. The only addition was the identification of commercial. She said the intent was to make sure those who were on Exhibit A knew their path.

Ms. Graser talked about Category 3: Reservations. The City had maintained a reservation for Chino Valley Irrigation District since 1999. The proposed policy did not effect that reservation.

Ms. Graser said that the total quantity reserved for vacant residentially zoned tracts would be reduced by the quantity of 50 acre-feet each year, with said reduction to be transferred to General Pool, effective January 1, 2017. She said there was a pool of 432 acre feet.

Ms. Graser said nothing would preclude the owner of any developable property within the City, where otherwise satisfying the requirements of City Code for water service, from applying for alternative water that was available in the water budget adopted by Council.

Ms. Graser talked about the reservation for Pre-Existing/Historic Agreements. This was the reservation identified in 2007-2008. The reservation remained under review. She said the last reservation was related to Deep Well Ranches with their own contract which states, "Nothing shall preclude them from applying now or in the future for additional water supplies from any sources the City made available for development within the City."

Councilman Blair asked if, for example, Deep Well Ranches already had a water allotment and they advised the City they were applying for more water to build workforce housing, would that be taken out of the workforce housing pool and retained in the water pool where it had been originally contracted.

Ms. Graser said their contract spoke to being able to look at the other pools.

Councilman Blair said if they had water already in contract and had a shovel ready contract for workforce housing, which met the definition, were they able to come to the water committee and Council and ask for a certain volume of water out of workforce housing, rather than use the contracted water. Ms. Graser said, yes or a combination thereof.

Councilman Lazzell asked about the previously agreed upon apartment complexes that were going in on Willow Creek Road, which had not broken ground. He wondered how they would be affected by the policy, and if they would lose it. Ms. Graser replied that it would be based on what their contract stated.

Councilman Lazzell commented that it could be case-by-case basis.

Ms. Graser talked about the water allocation process and highlighted the Site Plan Review process, and the Subdivision Plat Review.

Councilwoman Wilcox asked if Ms. Graser was asking the Council for direction on the definition of workforce housing; if it should be applied to ownership, rental, or both.

Ms. Graser said the definition in the Land Development Code would stay, but the language supported within the policy needed to be reviewed. In the past, the Council had said it was for ownership only.

Councilwoman Wilcox thought it should be applied for rentals as well, because not all would qualify for bank financing.

Councilman Lazzell said the trend right now was rentals.

Councilwoman Wilcox thought that a monitoring mechanism was needed to be sure those rentals stayed below the dollar definition built into the definition in the Land Development Code.

Craig McConnell, City Manager, said that the approach was well-meaning, but it had problems. He said they talked about workforce for whom. It was for workforce at or below a particular amount of money which for many was unachievable. Secondly, if it was ownership how would it be tracked. He did not think the City of Prescott wanted to set up a housing office to track this.

Mr. McConnell said that for the purpose of water allocation it could quickly end up as a regulatory complexity. He said that years ago the category of workforce housing was established for water allocation and there were not many takers. Those who were qualified for workforce/affordable housing were low income senior citizens and that did not work for workforce housing. So with a limited amount of water, should there be a category.

Councilwoman Wilcox thought a better solution to address the workforce/affordable housing issue would be to have a housing authority bring in outside money to create those projects for both families and senior citizens with one water allocation, and have the workforce housing category eliminated.

- C. Discussion and public comment re a draft ordinance for implementation of a City business license and changes to transient merchant licensing requirements

Mark Woodfill, Finance Director, presented. He showed a powerpoint presentation consisting of a few slides from the former presentation on April 5, 2016.

- Proposed Changes to Special Events

Mr. Woodfill pointed out that there was no privilege tax being collected on special events' vendors. There was a \$25.00 fee for the three day event and they were not required to get a transaction privilege license. A change was proposed to where the vendors would be responsible for paying sales tax on their transactions and would have to have a transaction license fee, and the annual business license.

Councilwoman Orr thanked him for the proposed change.

Mr. Woodfill said there had been some confusion as to whether it would be for a non-profit or a for-profit. The change would enable all special event vendors to be treated the same.

Councilman Sischka asked who would be required to collect the business license transaction for events that were being organized on the square.

Mr. Woodfill responded that currently the event sponsor was required to obtain the \$25.00 fee, because it was related to the one transaction. He said it was proposed that the event sponsor would provide a list of the vendors to the City, which would include their State transaction privilege license and the City business license number to verify they were licensed. It would be the responsibility of the vendor to get those licenses to the show organizer.

- City-wide License Fee Examples

Mr. Woodfill referred to the annual fees and the one-time fee for the business license. He said these were brought to Council for discussion, and would be brought back for further review at the May 3rd meeting.

Councilman Blair said he was on the fence on this, but he wanted to know who was doing business in the City of Prescott. He asked if the list of businesses would be listed on the City's website; alphabetized and categorized. He supported it if it was available on the City's website. He thought it was an important sales tool for the City in order to see who had done business with the community.

Mr. Woodfill said the intent was that the information provided be generic. He said It would be public information and could be made available on the website in some format.

Councilman Blair acknowledged that the Chamber could only reach so many people, who were Chamber members, so it was not a complete list of who had conducted business in the community.

Councilwoman Wilcox said in previous discussions they talked about the requirement that the license being an economic development tool. If a perspective business or

industry was looking to move here, there would be readily available access of the inventory of businesses through public sources.

Councilman Lazzell said he did not know that the City was in competition with news outlets, radio stations, and newspapers for advertising. He wondered if the City had the right to know who had done business here, or who the tourists were.

Councilwoman Orr talked about leveling the playing field. She said those selling on the square would have to pay the same sales tax as others.

Mayor Pro Tem Lamerson thought it was not the City's responsibility to market a business. He commented that for public safety reasons, maybe the people who lived here should also be registered.

Councilman Sischka appreciated the outlook of all the Council members. He thought it was his privilege to do business in the City of Prescott. He was happy to pay a fee that would help financially, and provide the opportunity to fulfill what people wanted for more economic development; such as manufacturers who wanted to know which businesses were located in Prescott. He thought if this was some type of clearing house that allowed the City to work in conjunction with the Chamber he would support it.

Mayor Oberg called for public comments.

Eugene Scott, citizen, addressed the Council. He said that he owned three rental homes. He had received a notice that they needed to pay a 2% privilege tax. He thought that renting a private home was not a privilege granted, but a right granted by the United States. He said that he had paid the tax. He said a few years later he got a message from the City that said that he now had to have a license to conduct the business. He filled out the form and paid the fee for the license. Then he got another message from the City that now he needed three licenses, because he had three homes. He felt that it was inappropriate for rental houses to be considered a business. He thought it was an investment and not a business. He suggested that residential rentals be deleted from business license fees.

Mr. Woodfill responded that it was based on each location, so it could be tracked for the taxable activity. When the collection goes to the State there would also be three returns.

Mayor Oberg asked if Arizona State Statutes required the City to collect TPT on rentals.

Jon Paladini, City Attorney, responded that the model tax code in state law allowed cities to tax residential rental income at the City level. The rental tax was 2% versus a comparative retail sales tax which was higher. It depended on the city and it was the municipal portion that went to the City that was a taxable transaction.

Councilwoman Orr said that in Mr. Scott's situation he had three licenses. She wondered if the proposed Ordinance would require him to have a single business license, but three tax licenses.

Mr. Woodfill said the way the Ordinance was currently written, each location needed to have a business license for identification of where the businesses were and in this case it would be three. He said this was open for discussion as to how Council would like to proceed.

Councilwoman Orr asked if there was a physician with other physicians in a practice, would it be only one business license for all those physicians. Mr. Woodfill replied it would be tied to one address for one business license, even if there were multiple physicians. The reason was to keep track of where businesses were located.

Councilwoman Orr asked about a bank that had three branches. Mr. Woodfill said it was based on a physical address.

Mr. Scott commented that he also paid regular property tax on all the houses and thought that was supposed to pay for the services that were provided by the City.

Mr. Paladini said for a residential landlord for a single family rental, the option could be that a single family residential or apartment landlord could have a single license that would list the various locations on the single license. He noted that more information would need to be added to the business license form to list the number of rentals that one landlord operated.

Councilwoman Orr asked if that could be incorporated into the Ordinance. Mr. Woodfill asked if that would be for just residential rentals, or all businesses. Mr. Paladini recommended it be just for residential rentals.

Mr. Woodfill said that two, three, or four units are distinguished for trash pickup. The Council could consider those factors, but the difference would be a 20-unit apartment complex which was more commercial. There could be a policy decision for a rational cutoff.

Mayor Pro Tem Lamerson asked if the state statutes permitted or allowed the City to collect a transaction privilege tax, but that it was not required. Mr. Paladini responded that for the residential transaction privilege tax, the State had authorized a city to collect a TPT. There were cities in the state that might not charge a TPT on residential rentals. Prescott had adopted a TPT for residential rentals.

Mayor Pro Tem Lamerson said he wanted to make the distinction that the City was allowed or authorized to collect the TPT, but not mandated to collect it.

Phil Goode, citizen, addressed the Council. He said his professional experience had been working with five different national health companies that manufactured supplies. He said in his position he was involved in looking for expansion of distribution plants. He said he only worked with cities where he was able to obtain quick information for the locations, which included competition and neighborhoods. He said cities that did not supply that information easily, were immediately rejected. He said there was a concern of the type of information that would be required by the City and he recommended that the information be as limited as possible.

Mr. Goode said there was also a concern that this would be the beginning of a tax on businesses that would be based on revenue, and that the amount of minimum information collected would be expanded.

Councilman Lazzell said that government never shrinks, only expands.

Mr. Woodfill said they would keep it simple for the businesses, and as far as income reported and made public state law and the City Tax Code law prohibited the release of any income type information from the City to the public. It was not a public record and could not be released.

Richard Steelman, citizen, addressed the Council. He talked about trying to locate a business to work on an excavation and concrete project. He said it was a difficult process and thought if he could verify someone as being a legitimate business owner recognized by the City that it would help him trust who he could hire. He said he could live with ordinances, but regulations were what he feared because of government involvement.

Ray Sola, citizen, addressed the Council. He talked about people that have two addresses, one in the front and one in the back who were required to pay for two water/sewage. He said the Chamber of Commerce surveyed their members and half said they favored this with a nominal fee. He did not think \$75.00 a year was nominal. He said from the discussion there were thousands of businesses in town that were not members of the Chamber. He said this was the same issue with the PDP, which had great benefits, but most businesses could not afford to be a member. He thought if should be a \$10.00 one-time fee, and then \$10.00 to make changes. He suggested that if the City wanted to raise money they should penalize those people who had not complied. Have them pay \$500.00 or \$1,000.00 as a penalty.

Mr. Sola talked about the halfway houses. He asked why the laws were not enforced for the half-way houses. He wondered if they registered or if they had paid property taxes as a commercial business, or rental property, or zoned as personal property. He said another issue was not to publish the owner's name of a business.

Kendall Jaspers, Prescott Downtown Partnership, addressed the Council. He said that his organization had talked this over and they were in favor of a business license as an

economic development tool. He said they also supported transient vendors to have a transaction privilege tax number for the same business as anyone with an existing business.

Councilman Lazzell asked about service businesses. He gave an example of a window washer whose business was conducted by a cell phone or P.O. box in his van and asked how a fire inspection was conducted on that business. Mr. Woodfill said it would be a home based business, which was number one on the list.

Mayor Oberg said progress had been made. He thought if the City did what surrounding communities had done, and as long as consistency was maintained with how the business licenses were applied, that this could be moved forward.

Mr. Woodfill said that he would bring back the ordinances for consideration at the May 3rd meeting.

Councilwoman Orr wanted the Council to look at what Mr. Paladini suggested with Mr. Scott's three residential rentals. She thought those could be listed and not applied for as three separate business licenses. Mr. Woodfill remarked that it would be brought back to the Council with that option. Councilman Sischka agreed.

D. Legislative Update

Alison Zelms, Deputy City Manager, presented. She said that this was the 100th day of session. According to typical rules for the Legislature this would be the end of the session, however they were not done yet. The session had been extended and there were still conversations about the budget. They had not heard much about the budget other than the Governor's Office and the Senate were close. The House still had concerns and no movement was made on the Bills until those discussions were complete. After the budget was approved there would be more movement on the Bills.

HB2107 had moved through the Senate last week and passed on a 29-0 out of the Senate. The next step was for the House to take action on the Senate amendments.

SB1350 on-line home sharing - the AIRBNB bill. She said that the City's contract lobbyist had been working on behalf of the City as well as the City of Scottsdale. Attempts had been made for amendments. The reality was that this Bill would probably pass.

Ms. Zelms said there were commitments to have the language changed surrounding the vacation rentals preemption. The City, Yavapai County, and communities around the state had prevented residential rentals for 30 days or less. The Bill would preempt Cities from having that regulated and there was some language that allowed the City to regulate. She said the words "narrowly tailored" had been removed. There had been commitment to add language that would exempt sober living homes inserted into the

Bill. The Governor supported the Bill and Ms. Zelms recommended that the Council remained neutral with their concerns.

SB1400 and SB1268 were related to regulation of water. SB1400 would require a county that had adopted an adequate supply of water ordinance to have that ordinance renewed every five years by a unanimous vote.

SB1268 was about adequate water supply requirements. It would allow cities or towns in a county that had adopted the adequate water supplies requirement to opt out or to choose not to meet those requirements.

- E. Requests for information re the April 19, 2016, Voting Meeting agenda items

No requests were made.

II. ADJOURNMENT

There being no further business to be discussed, the Study Session Meeting of April 19, 2016, adjourned at 2:56 p.m.

HARRY B. OBERG, Mayor

ATTEST:

DANA R. DeLONG