



COUNCIL SUBCOMMITTEE ON WATER ISSUES MEETING

REGULAR SUBCOMMITTEE MEETING MINUTES

TUESDAY, FEBRUARY 1, 2022, 9:30 AM

201 S Cortez Street
Prescott, AZ 86303
Council Chambers

Cathey Rusing, Mayor Pro Tem - Chairperson

Brandon Montoya, Councilman – Member Steve Sischka, Councilman - Member

MINUTES OF THE REGULAR SUBCOMMITTEE MEETING OF THE PRESCOTT COUNCIL SUBCOMMITTEE ON WATER ISSUES HELD ON FEBRUARY 1, 2022 IN THE 201 S CORTEZ STREET PRESCOTT, AZ 86303 COUNCIL CHAMBERS.

1. CALL TO ORDER

Chairperson Rusing called the meeting to order at 9:33 a.m.

2. ROLL CALL

Cathey Rusing	Chairperson
Brandon Montoya	Member
Steve Sischka	Member

3. PUBLIC COMMENT

Public comment will be accepted following each agenda item and are limited to three (3) minutes. Please complete a comment card and return it to the City Clerk, speakers will be called in the order received.

4. DISCUSSION & ACTION ITEMS

A. Approval of the January 11, 2022 Subcommittee on Water Issues Meeting Minutes

Member Sischka requested that his comment in Item 4.C. of the January 11th Subcommittee on Water Issues meeting minutes be changed to reflect that he said he is not blaming exempt wells for the problem.

Chairperson Rusing stated that in Item 4.C., she meant to include Prescott Valley in her request for confirmation on a statistic that Prescott is responsible for 75% of the water pumped out of the AMA.

MOTION BY MEMBER SISCHKA TO APPROVE THE JANUARY 11, 2022 MEETING MINUTES WITH REQUESTED CHANGES; SECONDED BY MEMBER MONTOYA: PASSED [3 – 0].

- B. Water Service Application No. WSA21-019, Submitted by Granite Dells Estates Properties, Inc., Prescott. Location: APN 103-04-009X, Comprising 98.87 Acres in Township 14 North, Range 01 West, Section 6, SE1/4, and SW1/4, in Part.

Deputy Public Works Director, Gwen Rowitsch provided a presentation to the Subcommittee regarding WSA21-019, explaining that this is a request for approval of water for a final plat for Granite Dells Estates Phase 5 and will be going to Council on February 22, 2022. Phase 5 consists of 67 single-family residential dwelling unit lots, is within the boundary of the procedural Pre-Annexation Agreement, Contract No. 2008-164 and both Amendments. Water will be provided through the Granite Dells Estates Contract. The Master Plan allows for 1,184 dwelling units, this will bring the number of dwelling units to 1,183. The water service contract allows for a maximum of 292 acre feet (AF), with the additional 67 lots, will be at 213.72 AF for the Granite Dells project. The additional 67 dwelling units, with no landscaping, brings the total water usage for Phase 5 to 11.39 AF/year.

Member Sischka asked about the maximum of 1,384 dwelling units, which is not what he heard in the presentation.

Ms. Rowitsch responded that Granite Dells Estates Master Plan has a maximum number of dwelling units of 1,384, was originally part of the Development Agreement but was removed under Amendment No.2 to bring the number of dwelling units to accordance with the approved master plan.

Member Montoya asked if this is the final phase of this development and asked for clarification on the amendment to the DA.

Ms. Rowitsch replied that there are still 239 undeveloped acres within the Granite Dells Estates boundary to the east and explained that the original DA had a maximum number of dwelling units and an allocation of water, under Amendment No.1 there were 700 additional dwelling units added, under amendment no. 2 the number dwelling units was predicated on the approved master plan and a maximum of 292 AF of water.

Member Montoya asked if this has changed the amount of AF of water allowed.

Ms. Rowitsch explained that an additional 48 AF of water was added in the first amendment for a total of 292 AF.

Chairperson Rusing commented that she has reviewed a copy of the Master Plan and noted that the south portion was to have only 550 dwelling units, to include commercial, industrial, and work-force

housing, and asked why this item was placed on the agenda during the revamping of the water policy and water budget.

Ms. Rowitsch responded that Granite Dells Estates has a contract for water that, under the current master plan, allows up to 1,384 dwelling units, and 292 AF of water, allocated under Amendment No. 2. This project falls within those boundaries and has gone through the administrative water review process.

Member Montoya asked for confirmation that the water budget does not affect this water service application.

Ms. Rowitsch confirmed that this application is not subject to the water budget; it is bound by the rules of the DA and related amendments.

Member Sischa asked if this was originally allocated at .35 AF per dwelling unit.

Ms. Rowitsch responded that it was under the original DA but changed in varied amounts as amendments and future phases came forward. The amount for this agreement will go into the Water Resource Management Model (WRMM) as .17 AF.

Chairperson Rusing asked if there is water that can be transferred to undeveloped land.

Ms. Rowitsch stated that it can, and the developer may use any remaining water.

Member of the public Tom Rusing addressed the Subcommittee asking how much buffer is built into the .17 AF for errors in estimation. He added that a water model with no buffer is unacceptable.

Ms. Rowitsch explained that .17 AF is a city-wide average of single-family residential users and there is no buffer. The previous .35 AF had .10 AF for commercial uses that supported residential uses. Commercial use is now calculated through billing records in the WRMM for their actual usage.

Interim City Attorney Matt Podracky directed staff and the Subcommittee that they need to stay on topic and this conversation is better suited for water policy discussion.

Member of the public Howard Mechanic asked if the allocation is for a certain number of units or water, he believes it should be for number of units.

Member Montoya stated that part of the challenge is that there are existing agreements that cannot be retroactively amended.

Mr. Podracky suggested that comment is more appropriate for a later policy discussion and confirmed that existing agreements/contracts need to be honored.

Chairperson Rusing commented that the old water policy had a use it or lose it element that needs to be discussed and restored.

MOTION BY MEMBER MONTROYA TO FORWARD ITEM 4.B. TO COUNCIL FOR APPROVAL OR DENIAL; SECONDED BY MEMBER SISCHKA: PASSED [3 – 0].

C. Focus Topic – Introduction to Northern Arizona Municipal Water Users Association (NAMWUA), Staff Update from January 21, 2022 Board Meeting

Water Resource Project Manager Leslie Graser provided an update on the January 21, 2022 NAMWUA board meeting. She stated that Councilman Montoya has been selected as the alternate liaison. The board looked at the 2023 budget, which is just over \$5,000 for the city. During the meeting, a contract for Program Manager Ron Doba was approved by the board, and the Arizona Water Company was welcomed aboard.

Chairperson Rusing asked how long the group has been in existence.

Ms. Graser responded that the by-laws were passed in 2004.

Member Montoya stated that he enjoyed attending and will continue to do so.

This item was for discussion only. No formal action was taken.

D. Focus Topic – Introduction to Upper Verde River Watershed Protection Coalition (UVWPC), Staff Update from the January 26, 2022 Executive Meeting.

Ms. Graser provided an update on the January 26, 2022, UVPWC Executive meeting stating that nothing has changed, Steve Blair sits as the Vice Chair and there is likely no need to provide a city alternate. Budget, dues, joint board SWOT analysis, stormwater management planning, and grant projects were the items discussed at the meeting. The city's piece of the harvest/recharge grant project is at the Rodeo Grounds.

Member Montoya asked when the dues for both NAMWUA and UVPWC will come before Council for approval.

Ms. Graser replied that will be part of the annual budget review and that the fees are \$5,009 and \$60,000 respectively.

Chairperson Rusing asked for clarification on the UVPWC's regional coverage and if NAMWUA's focus is on policy.

Ms. Graser responded that UVPWC works in the Upper Verde which includes the tribes, and Yavapai County cities and towns and NAMWUA's focus is on policy.

Member Sischa asked if Ron Doba is a lobbyist.

Ms. Graser confirmed.

Member of the public Leslie Hoy addressed the Subcommittee stating that she supports being part of the coalition adding that Prescott should continue to be involved but, if at all possible, staff and officials should take a stronger leadership position in suggesting and overseeing projects. Public involvement should be encouraged, as an example the agenda for the latest meeting was not published on the coalition's website.

Member Montoya asked who at the coalition is responsible for posting the agendas.

Ms. Graser replied there is a newer person whom she is not familiar with, but staff will look into it.

Member Sischka commented on Item 8 from the October 27th meeting UVWPC minutes stating that Ms. Hoy made the same comments just made and asked for clarification on Craig Brown's response that the solution lies with the legislature.

Ms. Graser replied that ADWR can only follow the rules that the legislature gives them.

Member of the public Tom Rusing addressed the Subcommittee stating he recommends that the city post the agendas as well. Also asked if the city can duplicate rainwater/stormwater harvesting done at the rodeo grounds elsewhere.

Ms. Graser noted that there is a difference between stormwater and rainwater harvesting. Could probably be implemented more with grant funding.

Member Montoya asked if part of the rodeo grounds project is an educational piece.

Ms. Graser explained that anytime a grant is received, there is an education outreach component.

Member Sischka asked if widespread rainwater harvesting can eventually bump up against the Salt River Project (SRP) and their goals.

Ms. Graser stated the law says that once it is in an active channel it's appropriable.

This item was for discussion only. No formal action was taken.

E. Discussion Regarding Water Outside City Limits and Water Service Area Boundary as it Relates to the Proposed 2022 Draft Water Policy

Chairperson Rusing pointed out policy numbers 17 and 18 of the draft water policy and reviewed the history of water outside city limits without annexation, which included a code change. Pointed out that Yavapai County is the 4th most populace county in the state and the City of Prescott is the main economic driver for Yavapai County. She feels is important to keep Ordinance 2-1-8 intact for the following reasons:

- No other towns or cities provide water outside their boundaries
- Our open space policies depend on annexations to provide 25% of open space
- If Prescott provides water and sewer to an unincorporated area, it can be annexed by another city like Chino Valley or Prescott Valley, then sales tax will be handed over to them

- Our commercial projects will be attracted to move and invest in Prescott
- Will encourage urban sprawl in land that won't be contiguous
- Will circumvent codes, ordinances, zoning, and city charter
- Is contrary to the General Plan
- Would cause unregulated encroachment on the airport jeopardizing expansion and FAA funding
- Would fuel unregulated, unmanaged growth
- There is no public support for it

Member Sischka commented that it is a mistake to not offer water outside city limits, and while the presumption is that if water outside the city limits is not offered, and areas are not annexed, developers won't build, that is not true. If the focus is saving our aquifer, Prescott has the best opportunity to recharge the most water back into the aquifer. He mentioned that Stringfield was not voted down, there was never a vote because the developer pulled his application; and said that he believes limiting the city's opportunities is not the way to go.

Member Montoya commented that he feels the community has spoken as to what they would like to see as policy. Believes that Prescott should create regional cooperation, suggests carrying a message to the City Manager to begin the charge. He said he disagrees with the idea that Prescott has the best policy and should take over the entire area.

Chairperson Rusing commented that Prescott has always provided water outside the service area; Ordinance 2-1-8 makes allowances for people to hook up to city water, within certain rules and regulations. She believes Prescott cannot grow sustainably without a well-crafted water policy and annexing needs to be done in a sustainable and well-planned manner.

Member of the public Leslie Hoy addressed the Subcommittee regarding her concern with section 2 of policy 19 that references ARS 11-951, which is broad; the language needs to be tightened up to specify what the city is limiting water agreements to.

Mr. Podracky commented that it was written three different ways and settled on this to avoid the creation of a special district. The way it is written will allow IGA's for developments with the Federal Government.

Member Montoya asked Mr. Podracky for confirmation that it was written this way to discourage special water districts and if he has confidence that, as is it written, would do that.

Mr. Podracky confirmed both questions.

Member Sischka stated that he is not against limiting who the city can deal with but is against limiting Council's options to do what is best for the city. Wells and septic systems that may go in for those who decide to build outside of city limits is not good for the aquifer.

Member Montoya asked if there is anything in the water policy that ties Council's hand from going outside of the policy.

Mr. Podracky replied that if 2-1-8 is amended, that is local law and beyond policy. If a policy is set up, it should be abided by, however, there can be exceptions, which should be written into the policy.

Member Montoya asked if the criteria could be that it requires a super-majority vote to approve the exception.

Mr. Podracky responded that would be Council's decision.

Chairperson Rusing commented that an annexation requires a super-majority vote, and it does not make sense that a majority vote can change the water policy.

Mr. Podracky emphasized that policy would not have the force of law, it would only govern how the existing Council operates. After the next election, the policy may change.

Member of the public Leslie Hoy addressed the Subcommittee stating that she is not sure what can be done to ensure the policy set in place by this administration stays in place, adding that we have a limited amount of water that needs to last.

Member Montoya asked if it possible to amend the charter to require a super majority to change the water policy.

Mr. Podracky replied that Council can refer a charter amendment proposal to the voters, or the voters can bring it forward with an initiative.

Member of the public Karen Aikens addressed the Subcommittee regarding her concerns about providing water outside city limits.

Member of the public Tom Rusing addressed the Subcommittee with key points and concerns from CWAG's position paper on water without annexation and encouraged Council to review it.

Member or the public Mike Fann addressed the Subcommittee and asked them to step back and take a look at Arizona laws and be cautious on how they move forward, adding that annexation will control growth and preserve the aquifer.

Member Montoya asked Mr. Fann if he is encouraging the city to keep its policy of annexation restricted but with an out and if he is saying that a policy providing water outside city limits does more harm than good.

Mr. Fann replied that he is saying that if you are going to provide water outside city limits you want to annex to receive the revenues and to have commercial facilities within city boundaries.

Member Montoya stated that he agrees that annexation is ideal in most cases and asked Mr. Podracky if the requirements Mr. Fann noted can be enforced outside of the city.

Mr. Podracky replied that it's not typically required but can be negotiated.

Member Montoya responded that there are statute limitations as to how the city can annex and as a result limits to what the city can do. What the city needs to do is work with our community partners.

Chair Rusing asked Mr. Fann for an example of a project that would be given an exception, she cannot think of a project that the city would want to provide water outside city limits to.

Mr. Fann replied that it is a unique situation, but Granite Dells Estates would have been one.

Member Montoya stated that he appreciates his words of caution and asked Mr. Podracky to speak to the state limitations for annexation.

Mr. Podracky responded that under Prop 400, large-scale annexations require a super-majority vote. Smaller annexations require some level of contiguity with the city boundaries, which requires an affirmative vote. A pre-annexation development agreement has the assumption that a DA will take effect upon an annexation, a petition is filed with the County and there is a time limit. The time limit for larger annexations under Prop 400 is extended, a cost benefit analysis is required, and there must be an assurance that effluent is returned.

Member Sischka commented that has no issue with annexation to provide water; and asked Mr. Fann if his project had not been annexed would he have left.

Mr. Fann replied he would have had to break the land into forty-acre parcels and sell which would have been more profitable but irresponsible.

Member Montoya commented that it is better to provide water within city boundaries because of the benefits received, such as sales tax. Had Granite Dells not been annexed the city would be providing water to a community that gives back nothing in return yet leverages city resources. He asked Mr. Podracky if an area that the city agrees to provide water to can be annexed by another municipality.

Mr. Podracky replied that he does not know.

This item was for discussion only. No formal action was taken.

5. General Announcements from Staff

Due to time constraints, this Item was not discussed.

6. ADJOURNMENT

There being no further business to discuss, Chairperson Rusing adjourned the meeting at 11:30 a.m.

 3-3-21
Cathey Rusing, Chairperson

ATTEST:



Jennifer Wiita, Deputy City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Subcommittee Meeting of the Council Subcommittee on Water Issues of the City of Prescott, Arizona held on January 11, 2022. I further certify the meeting was duly called and held and that a quorum was present.

Dated this 7th day of March, 2022.

AFFIX
CITY
SEAL



Jennifer Wiita, Deputy City Clerk