

**TOWN OF PRESCOTT VALLEY  
REGULAR COUNCIL MEETING  
MINUTES  
August 23, 2007**

*Magistrate Court/Council Chambers  
Civic Center  
7501 E. Civic Circle  
Prescott Valley, Arizona 86314*

1. *CALL TO ORDER*
2. *INVOCATION*
3. *PLEDGE OF ALLEGIANCE*
4. *ROLL CALL*

The meeting was called to order by Mayor Skoog at 5:30 p.m. in the Magistrate Courtroom/Council Chambers. Vice-Mayor Wise gave the invocation, after which the Pledge of Allegiance was said in unison as led by Ben Harper. The following council members were present for roll call:

<i>Harvey Skoog</i>	<i>Mayor</i>
<i>Harold Wise</i>	<i>Vice-Mayor</i>
<i>Mike Flannery</i>	<i>Council member</i>
<i>Fran Schumacher</i>	<i>Council member</i>
<i>Mary Baker</i>	<i>Council member</i>
<i>Lora Lee Nye</i>	<i>Council member</i>
<i>Bob Edwards</i>	<i>Council member</i>

5. *ANNOUNCEMENTS & PRESENTATIONS*

*CERTIFICATES*

- a. *Certificate of Appreciation to Laura Valenzuela for 10 years of service*

A certificate of appreciation was presented to Laura Valenzuela for 10 years of service to the town.

*COMMENTS/COMMUNICATIONS/DEPARTMENT REPORTS*

- a. *Bridge Safety – Public Works*

Public Works Director, Norm Davis, reported that there are two bridges in Prescott Valley and they are in excellent condition. One is the Lynx Creek Bridge in StoneRidge and the second is the Agua Fria Bridge at Bradshaw Mountain Road. The Lynx Creek Bridge was built in 2001 and the Agua Fria Bridge was built in 2004. The Town of Prescott Valley has an Intergovernmental Agreement with the Arizona Department of Transportation bridge group to do inspections every two years. Within the next 60 days the bridges will be inspected again.

Concrete box culverts are also a concern underneath roadways. These are inspected every four years. There are six of these culverts within town limits and they were inspected two years ago.

Norm Davis went on to say that all bridges in Arizona get equal attention and inspections, whether they are State, Municipal or County bridges.

*b. Old Towne Update – Parks & Recreation*

Parks and Recreation Director, Brian Witty, reported on the Old Towne Park project that is located behind the Dairy Queen on Town-owned parcels between Robert and Valley Roads. The Town is currently in the process of engaging into an agreement with a landscape architect which will bring this project into greater light. Several tasks include coordinating data and project information through a site visit, verification of existing conditions and also conducting a draft base plan that will be shared with staff. They will also participate and engage the community taking input and proposed ideas from the community. This notice to proceed and the engagement with the community will happen within a two-week period of that agreement. Through this process they will go through design concepts and building material suggestions. This will be followed with a town review where some design guidelines will be incorporated, and staff will participate. Next will be a secondary community meeting so that we can reflect on what has been gathered and put it together into a concept plan. They will ask for a submittal of rendering and then will provide a presentation to the Parks and Recreation Commission. Hopefully this will happen some time in November and then proceed with presentation to Council for a work study in December. It is planned that two weeks after the work study they will be able to develop the final layout drawings and preliminary cost estimates to move forward. And then there will be finalization of the construction documents and will anticipate ground breaking, weather permitting, some time within the month of February.

*6. CONSENT*

- a. Approval of Minutes – August 9, 2007*
- b. Approving the purchase of a 2007 John Deere Tractor in the amount of \$53,815.05 from Bobcat of Yavapai*
- c. Approving Amendment No. 1 to the IGA between the State of Arizona and the Town of Prescott Valley for Phase 2 of the Central Core Multi-use Path (JPA 04-037)*
- d. Accepting a Public Utility Easement for the Sungate Villa Senior Community as requested by WESCAP Investments, Inc.*
- e. Accepting a Public Utility Easement from the Fain Signature Group for North Central University offsite (east) utility extension*
- f. Approving Departmental Monthly Statistical Reports:*
  - Community Development*
  - Library*
  - Parks and Recreation*
  - Public Works*
  - Town Clerk*
- g. Council Investment Report*
- h. Approving Accounts Payable for August 3 thru August 16, 2007*

Council member Nye made the MOTION, seconded by Council member Baker, to approve the consent agenda as read, by electronic vote. MOTION carried with 7 ayes and 0 nays.

## 7. NEW BUSINESS

- a. *Consideration of authorizing the Mayor to sign Resolution No. 1522 adopting a Final Development Plan for High Valley Dental office building (FDP07-017)*

Community Development Director, Richard Parker, stated the building that will be located here will be a little over 2,200 square feet and will house a dentist office. The elevation that has been provided proposes a façade that includes stone. There will be on-site parking as prescribed by code.

Vice-Mayor Wise asked what the site setback is on this property and is there going to be any kind of a wall between the carwash and the parking. Richard Parker responded that the setback is 0 and there will be a one-hour masonry firewall.

Council member Schumacher made the Motion, seconded by Council member Nye, to authorize the Mayor (or, in his absence, the Vice-Mayor) to sign Resolution No. 1522 adopting Final Development Plan 07-017, by electronic vote. MOTION carried with 7 ayes and 0 nays.

- b. *Consideration of authorizing the Mayor to sign Resolution No. 1523 in support of the 2007 Transportation Efficiency Grant application for the Prescott Valley Pipeline Multi-use Path, Phase 2 AND to sign Resolution No. 1524 in support of the 2007 Transportation Efficiency Grant application for the Highway 69 Multi-use Path, Phase 3*

Public Works Director, Norm Davis, reported the Transportation Enhancement (TE) program has been developed by the Arizona Department of Transportation (ADOT) and the Federal Highway Administration (FHWA) to assist communities in development of projects that enhance surface transportation activities. The TE program is made possible by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), re-authorized in 1998 under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and SAFETEA-LU re-authorization by the current U.S. congressional session.

The Public Works Department is submitting two TE applications for consideration in 2007 (Round 15). One is for the next phase of the PV Pipeline Multi-Use Path (locally administered) and the other for the next Phase of the Highway SR 69 Multi-Use Path (state administered). A resolution for each application from the Town is necessary for these applications. These resolutions state that the Town will contribute at least 5.7% towards construction costs, all design costs, and a \$5,000 ADOT administration fee.

Mayor Skoog asked if the first project on Hwy. 69 will cause any interference with the Crossroads project. Norm Davis responded that Great Western is the edge limit and the project would only go up to this boundary.

Council member Edwards asked about the El Paso chain link fencing that goes across to keep motorized vehicles from traveling up and down this area. Will the fencing come down once they put the path in or will it have a gate? Norm Davis responded that they put bollards at those particular installations. This will be discussed with El Paso. They do not want vehicular traffic in this area. The PV Pipeline trail will be asphalted. The Hwy 69 trail will be concrete.

Council member Schumacher asked if these grants are matching grants? Norm Davis responded that these are competitive and he feels that the more you help throw in towards the grant with matching monies makes one a more viable candidate. The policy in the past is that the on-system grants that are within Hwy 69 are all on ADOT's nickel. This particular grant, (Central Core Multi-Use Path) had at least a 5.3% match. But typically for a \$500,000 grant, we contribute about \$100,000. It helps to tip the scale when you ask for money and also contribute.

Council member Baker made the MOTION, seconded by Council member Schumacher, to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1523 in support of the 2007 Transportation Efficiency Grant Application for the PV Pipeline Multi-Use Path, Phase 2, and to sign Resolution No. 1524 in support of the 2007 Transportation Efficiency Grant Application for the Highway SR 69 Multi-Use Path, Phase 3, by electronic vote. MOTION carried with 7 ayes and 0 nays.

*d. Consideration of approving an IGA with the State of Arizona (ADOT) for photo enforcement on state highways located within the town limits*

Police Chief, Dan Schatz, reported this IGA provides a procedure for approving necessary permits, including a single permit for operation of the mobile van and separate permits for each fixed system location. At present, the permits are approved for one year (with the potential for a one-year renewal). The IGA also provides for an agreement to be maintained between the Town and the Department of Public Safety as to how the two agencies will cooperate in traffic enforcement on the state highways within the Town. Chief Dan Schatz and Commander P.J. Janik report that they have reached such an agreement with the DPS Commandant for the applicable portions of SR 69 and SR 89A.

Quite a number of signs will be placed to alert the driving public that they are entering photo enforcement zones. Those signs will be placed in the area of Hwy 69/169, Mingus West area, Victorian Estates on Hwy 69, and at approximately the water tank area of 89A and Fain Road. Signs will also be placed by the mobile speed vans when they are deployed. The 55 mph areas of the State highways, where the mobile van is used, will use a newer technology. The van will be placed off to the side of the road meeting the offset requirements. A tripod system, designed by Redflex, will be used. This should be available in approximately 90 days. We are hoping to minimally deploy a mobile speed van on Hwy 69 and 89A shortly after the first of September.

Statistics that are coming to us regarding traffic collisions in the Town of Prescott Valley are coming in favorably. We are still in the 22% area of total reduction of accidents, which is over 100 less than in 2006. Injury accidents are down significantly (close to 40%) from January 1 through July 31. Inclusion of this technology on the state highways will have an even a more dramatic impact because Hwy 69 has the highest collision incident rate area in the Town of Prescott Valley. It is hoped that there will be the same dramatic impact on slowing people down.

There will be a public education campaign and there will be a warning period of 30 days for each site.

Council member Nye fully supports this project. She is aware that there will be many angry letters to the editor, emails and phone calls but she is proud that the community is giving safety a high priority.

Council member Flannery concurs with Council member Nye that safety is first. The reduction of accidents in the interior of Prescott Valley has been welcoming news and is worth all of the battering by the public that has been received. He asked if there was going to be another issue with the timing of the red lights. Chief Schatz said that he did not believe so. All of the timing of the lights on the highways is controlled by the Arizona Dept. of Transportation (ADOT).

Council member Flannery asked about the timing of when the photo radar will be in place. Chief Schatz said that the mobile speed van will be out after September 1 on both Hwy 69 and Hwy 89A in the 45 mph areas. But the areas of 55 mph stretches will not be in effect for 90 days until the tripod is available. Council member Flannery asked if Fain Road was considered to be part of 89A. The response was no but there is an area of Fain Road that is in the town limits where they will deploy the van once the appropriate permit is received.

Public Works Director, Norm Davis, reported that ADOT has requirements for a clear zone away from the highway where a permanent vehicle can sit. This can be accomplished through having a concrete curb. There is a curb on Hwy 69 and the clear zone is 2 feet off the highway behind the curb. But on 89A the clear zone is 30 feet (without a curb) for a permanently stationed vehicle. This is where a wireless camera will be utilized.

The representative from Redflex addressed some of the issues regarding photo radar.

Council member Schumacher asked the Chief about the agreement with the Department of Public Safety (DPS). Chief Schatz explained that the letter from the director of DPS says that DPS will take responsibility for those areas of the state highways that are not in the town limits and that the Town of Prescott Valley will take responsibility for those areas in Prescott Valley.

Council member Baker said there was a permit for only one year. What is the probability of an additional year after all of this has been put into place? Chief Schatz answered that the requirements that need to be met are showing ADOT the effect of the photo enforcement technology on traffic collisions on the highway. It is anticipated that this effect will be very similar to what it has been in the Town. After one year we would receive renewal for at least another year for the use of technology. This is a standard IGA that ADOT has drafted and he would say that we are the trailblazers for this project. Town Manager, Larry Tarkowski, added that this agreement will be the template for many other communities in the State of Arizona.

Council member Edwards stated that from day one people have wanted Hwy 69 to be safer. Utilizing photo radar will help people be safer.

Council member Nye, to the Redflex representative, stated that she is sure that someone will be asking about the efficiency of the wireless tripod. The Redflex response was that the efficiency will not be degraded by going to the wireless equipment. It is exactly the same equipment.

Vice-Mayor Wise asked about a wider-lensed camera. Will that be used on Hwy 69? The Redflex response was that a wider-lensed camera can be provided if requested.

Council member Nye made the MOTION, seconded by Council member Baker, to approve the Intergovernmental Agreement with the State of Arizona, through its Department of Transportation (ADOT), for photo enforcement on state highways located within the Town, by electronic vote. MOTION carried with 7 ayes and 0 nays.

- e. Consideration of approving a contract with Prescott Valley C & D Landfill for Clean-up Day disposal services in an amount not to exceed \$43,550*

Public Works Director, Norm Davis, stated that beginning in FY 2004-05, the Town budgeted \$80,000 to extend the Town's Annual Clean-up Day to twice annually. With the success of the fall events, the Town has scheduled this event for fall 2007. This proposal is for the annual Fall Clean up Day scheduled for October 5<sup>th</sup> and 6<sup>th</sup>, 2007. The Town will sponsor this event by providing a site adjacent to the Wastewater Treatment Plant for Town residents to bring in refuse, recyclable materials (steel, aluminum, plastic), appliances, tires and batteries at no charge to Prescott Valley residents. The Town of Prescott Valley is responsible for funding and making arrangements for the disposal of the material collected.

This event has been a tremendous success and has grown substantially since its inception in 1997. Our residents have overwhelmingly responded to this opportunity to clean their property and partner with the Town to clean the environment. Flyers will be distributed to all residents with the details of this clean-up day.

The low bidder for the fall 2007 event, Prescott Valley C & D Landfill, is a local vendor. This is a unit price contract with the final amount due based on the success of the event. Included in the base bid is 800 tons of refuse hauled to the landfill, 825 tires and 175 Freon appliances. Haul and disposal of the steel, aluminum and plastic recyclables was bid at \$0.00 per unit (no charge).

Containers for plastic, aluminum, steel, Freon appliances, tires and lead acid batteries will be provided. Mitigation measures for this event include installing a wind fence around the pile of refuse, operation of a water truck throughout the day to control dust, and removal of the pile in a timely manner. The contract requires that all materials be removed by October 29, 2007.

Yavapai County has expressed an interest in partnering in this event as they have previously since May of 2004 by having County residents from Castle Canyon Mesa and the Prescott Country Club participate. An IGA is already in place and Yavapai County has agreed to pay a cost based on their residents' involvement. In May 2007, their participation totaled 17.3% of the visitors to the event.

Council member Baker made the MOTION, seconded by Council member Schumacher, to approve the contract with Prescott Valley C & D Landfill for disposal services for Clean-up Day - Fall 2007 in an amount not to exceed \$43,550, by electronic vote. MOTION carried with 7 ayes and 0 nays.

- f. Consideration of authorizing the Mayor to sign Resolution No. 1525 offering to extend the SR69 median from Crossroads to the western Town limits at Town expense*

Town Manager, Larry Tarkowski, reported that for some time, Town staff has been working with staff from the Arizona Department of Transportation to discuss safety issues on State Route 69. Many of these discussions have been in the context of planning the new median

west of StoneRidge Drive which the Town is constructing pursuant to a development agreement with the developers of the Crossroads Mall.

The issue of cross-over accidents near the west entrance of Prescott Valley on SR 69 has led Town staff to propose that this median be extended all the way to the Town limits. Staff has suggested that the median could be enhanced with barriers to address the cross-overs, but would also include landscaping for aesthetic purposes and would accommodate a left-turn-in to the Victorian Estates development. The left turn bay into Victorian Estates would go far to allay concerns by that neighborhood about convenience for residents and responsiveness of emergency vehicles. Town staff had offered this suggestion in response to a proposal from ADOT staff to simply extend a “jersey barrier” (similar to what is used on interstate highways) from the west edge of Crossroads to the Town limits and beyond.

At different points, Town staff thought an agreement with ADOT had been reached to employ the Town’s median proposal. Unfortunately, ADOT staff has recently informed the Town that it has fallen back on the jersey barrier approach for engineering and potential liability reasons.

Town staff continues to disagree with ADOT staff that applicable engineering standards require the jersey barrier approach. In fact, we note that jersey barriers have not been placed on state highways (other than interstate highways) anywhere else in the state.

Council has indicated a desire to formally offer to ADOT that the Town will pay to extend the median which it plans to build in the Crossroads area, all the way to the western Town limits. In the process, it would form a left-turn-in for Victorian Estates. Left turns out would still be blocked. Resolution No. 1525 formally makes this proposal to ADOT.

Council member Flannery asked if the resolution and accompanying letter are going to be directly sent to ADOT staff and Transportation Board. Town Manager, Larry Tarkowski, responded that he has directed Town Clerk, Diane Russell, to send these letters and resolution to these individuals at their residences.

Vice-Mayor Wise asked if it will be possible to maintain a 45 mph speed limit all the way to Victorian Estates. Tarkowski replied that the highway is under ADOT and we will be asking them to do a speed study in advance of the completion of the landscape median. He believes that there will be an adjustment once the speed study is done because of the driveway access points and the commercial traffic that will be generated by the Crossroads project.

Council member Baker asked if there will be three lanes past Crossroads going westbound ending at Victorian Estates, the same as eastbound. Norm Davis responded yes.

Council member Schumacher asked if the third lane is going to the end of Victorian Estates. Norm Davis said it tapers down to two lanes at the entrance of Victorian Estates.

Council member Nye made the MOTION, seconded by Council member Baker, to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1525 offering to extend the median in SR 69 from Crossroads to the western Town limits, at Town expense, by electronic vote. MOTION carried with 7 ayes and 0 nays.

*c. Consideration of approving the Price Floor Agreement with Aqua Capital Management, LP establishing a minimum bid price and purchase terms for the effluent water auction*

This item was moved to the end of the meeting per Town Manager, Larry Tarkowski. Assistant Town Attorney, Colleen Auer, passed out copies of the latest updated agreement to the council and reported that at the regular meeting on October 12, 2006, the Town Council adopted Resolution No. 1463 authorizing the Town Manager and Mayor to take certain actions necessary to conduct an auction to allocate 2,724 acre feet of effluent interests identified by ADWR as part of a Physical Availability Demonstration (PAD). A three-day, two-round, sealed-bid and oral auction was scheduled for November 1-3, 2006. However, Resolution No. 1463 also authorized the Manager to postpone and reset the auction as reasonably necessary in the public interest.

On November 2, 2006, the Manager reported to the Council that one bidder had qualified for each of the three groups of water, but a bid at the established minimum price wasn't expected. Therefore, he had postponed the auction to assess whether (a) additional time would help potential bidders better evaluate the asset in light of market conditions and prospects, and (b) auction format changes would make the auction more effective. He explained that considerable interest remained in the auction concept and, if concerns about the ability of potential purchasers to carry financing costs over necessary periods of time were addressed, a subsequent auction would likely be successful. The Council agreed and expressed continued support for the auction concept.

Over the next 9 months, staff has worked with representatives from Aqua Capital Management, LP, and the parties have arrived at a Price Floor Agreement which establishes a minimum bid price and purchase terms for the effluent interests at auction. The Agreement modifies the earlier auction concept by allowing Aqua (under the Price Floor Agreement) or any other successful bidder (under a purchase agreement) to make a cash down-payment and then pay the balance at specified points over time (more in line with the economic model typically followed by end users of water). More particularly –

- a minimum bid price per acre-foot will be established at auction which reflects the Price Floor amount of \$19,500.00 plus any break-up fee paid to Aqua (if Aqua does not receive the water either under the Price Floor or as the successful bidder) plus certain Town costs, including fees payable to the Town's auction consultant. Note that the Town has arranged with ADWR for the initial purchaser of these effluent interests to also have available for use any first-generation effluent that is captured as a result of using these interests (not to exceed 60% of the quantity of the Effluent pledged to the approved Certificate of Assured Water Supply (CAWS));

- the initial purchaser may use the effluent interests (including any additional first-generation effluent) directly or may sell some or all of it to subsequent purchasers;

- the initial purchaser will make a down-payment equal to 25% of the Price Floor or final bid price (whichever is higher) times 1,103 acre-feet (recognized by ADWR as being available today as an assured water supply);

- if the purchased interests are used to obtain a Certificate of Assured Water Supply (CAWS) from ADWR, the ultimate purchaser pays an additional 25% per acre foot pledged to such

CAWS. The remaining 50% is paid in equal installments based on the number of building permits associated with the CAWS, payable within 30 calendar days of issuance of each building permit. If the interests will be pledged to a Town-approved alternative use (instead of a CAWS), the ultimate purchaser pays the remaining 75% for the acre-feet pledged to such use;

- recognizing that the initial purchaser may, in turn, enter into sub-agreements for payment over time from end users, any such payments must be apportioned between the Town and the initial purchaser so that each is paid an equivalent percentage of their total sales price. Tracking and apportionment of such payments will be administered by an independent escrow agent in accordance with the terms of a separate Escrow Agreement;

- since ADWR has agreed to recognize up to 1,621 additional acre feet of effluent interests as the Town builds and permits additional recharge facilities, the initial purchaser will have the option to purchase those additional interests as they are recognized. These payments will also involve a down-payment of 25%, followed by the balance upon issuance of a CAWS and building permits, or upon approval of an alternative use. The initial purchaser has 5 years from the date of receipt of ADWR's annual accounting sheet to exercise its option to purchase the new effluent interests recognized therein;

- to lower the risk to potential purchasers, the Town has agreed to reimburse monies paid if (i) ADWR refuses to issue any CAWSs based on the PAD because of regulatory, policy, administration changes or other reasons unrelated to any action or inaction on the part of the Town; (ii) ADWR suspends issuance of CAWSs due to any action or inaction on the part of the Town which has not been timely cured after notice; (iii) the Town violates the provisions of the Price Floor Agreement or a purchase agreement; or (iv) the initial purchaser still holds uncommitted effluent interests on July 31, 2032 which are unusable or unmarketable despite good faith, commercially-reasonable efforts to use or market them. Except for reimbursement due to Town misconduct (which includes an interest component), any reimbursement is limited to actual amounts paid and isn't expected to exceed the amount of the initial down payment. ; and

- the Town has agreed not to market any other assured water supply sources during the term of the Price Floor Agreement or purchase agreement for less than 10% above the then-current market price of these effluent interests.

Council member Flannery asked if the 25 years is the same for the original as for the option. Assistant Town Attorney, Colleen Auer, responded no. Basically the life of it is 25 years to put all of the water into play. The 2,724 acre feet have to be put into play in 25 years.

Council member Flannery asked what assurance has been made that the 1,621 acre feet will be there. Auer responded that in order for ADWR to acknowledge the 2,724 acre feet, we had to lay out all of the facts and details. Council member Flannery said that he is aware of that but what kind of linkage is there within this Agreement that the water is going to be there. Do we default if it is not available? Town Attorney, Ivan Legler, said that we have made commitments to do the things we need to do to make sure that water is available eventually. We have to build the recharge facilities and work with ADWR to make sure that the water is available. Town Manager, Larry Tarkowski, stated that the ADWR has recognized that volume of water based on the number of houses that are approved in Prescott Valley and that we will be generating that level of effluent. And we are financially rewarded by going ahead

and getting that recognition. Auer continued to say that yes we have obligations that we need to fulfill to ADWR but we are not bound to have any particular quantity available by a particular time frame. We just say that we will be recharging annually and we anticipate, based on our projections, at least 200 acre feet more a year up until the time it takes to quantify the balance.

Water Resources Manager, John Munderloh, reported that in the Town's representations to the Department of Water Resources, we were able to demonstrate a fairly large quantity of effluent that we predicted we would produce at build-out of the current approved lots. ADWR wanted a very conservative estimate which we provided. We believe that the current committed lots will produce on the order of 3,800 acre feet of effluent or more. We had to take out some of the existing commitments from that volume. Again, that was an incredibly conservative estimate. There is no doubt that, as the town grows, we will be able to produce that. As a matter of fact, as the effluent production increases we are trying to build the recharge facilities. If we had the capability of reaching 100% of recharge efficiency, we would be putting about 2,200 acre feet of water in the ground as of 2006. We have a lot of capacity there in increasing our recharge efficiency and we also have the capacity, as we have seen over the past several years, for an increase of about 200 acre feet of effluent produced annually increase. Town Attorney, Ivan Legler, added that as far as risk is concerned, there is no reimbursement risk because they have not paid for it until it is produced.

Assistant Town Attorney, Colleen Auer, reported that the auction date is October 29 and 30, 2007. The Price Floor Agreement will be posted, as well as all the exhibits, escrow agreements, etc. on our consultant's website, [www.waterexchange.com/auction](http://www.waterexchange.com/auction). All finalized documents will be forwarded to our consultants to be posted on their website. The Town's website will also have a link to this website.

Auer wants to thank all of the participants from ADWR who worked with the town on this project. They supported our efforts to reach safe yield and treat this as the asset that it really is and make it available for the highest and best price we can receive for it. She also wanted to thank Aqua and their counsel to meet our timing needs. Additionally, she wanted to thank Town Manager, Larry Tarkowski, for keeping this deal alive. This is the first community to commoditize an asset like this.

Town Attorney, Ivan Legler, praised the efforts of Assistant Town Attorney, Colleen Auer, for creating the documents and for her negotiating skills. She has been following this process for the past nine months. This has been a huge collaborative effort, including several outside attorneys, John Munderloh and, of course, the patience of the Council.

Town Manager, Larry Tarkowski, stated that the value of this is over \$5 million that will happen shortly after the auction. Total value of the deal is over \$53 million. In terms of the history of this town, that is huge. This is one heck of an effort that is to the town's benefit.

Council member Nye asked about that options. It states that Aqua shall have 20 business days to cure any unsatisfied conditions listed in a timely option rejection. How did they decide on 20 days? Assistant Town Attorney, Colleen Auer, wanted to allow reasonable time to complete the extensive paperwork.

Council member Schumacher expressed her thanks to the dedicated staff and all the long hours that were spent completing this.

Town Attorney, Ivan Legler, brought up the fact that Council member Edwards was the first to bring up the possibility of having an auction for the dispersal of this water. Council member Edwards continued to say that this was a team effort that everyone worked hard on and wants to thank everybody who was involved. This is truly a cutting-edge vision for our community because he thinks it will set the way for a lot of communities to look over what can be done if you have the teamwork and the people working together.

Vice-Mayor Wise said we should look back and realize how big this project is. He asks the question as to whether this has been done anywhere else in Arizona or the United States. The answer is not that anyone is aware of. We should not lose sight on how huge this is for our community. We have a lot to be proud of.

Council member Flannery said he is not 100% satisfied but he commends everyone for bringing in a package that is fair and equitable and the job got done. When it comes to a challenging project like this, he becomes enamored with our staff because he sees a bonding of the staff and is in awe on how this was accomplished.

Council member Baker said this is taking Town Manager, Larry Tarkowski's vision and making it happen. She appreciates all the work it took.

Mayor Skoog appreciates all the work that was done. Assistant Town Attorney, Colleen Auer, has done as good a job as is humanly possible.

Council member Flannery made the MOTION, seconded by Vice-Mayor Wise, to approve the Price Floor Agreement with Aqua Capital Management, LP, by electronic vote. MOTION carried with 7 ayes and 0 nays.

Town Manager, Larry Tarkowski, recommends discussing the WestWater contract (marketers of the auction) at the September 6 work/study and then roll in to a special council meeting where we can consider signing a contract so that WestWater can stay on track with the auction that is scheduled for October 29 and 30.

#### *8. COMMENTS FROM THE PUBLIC*

Ben Harper – is happy with the photo radar enforcement and how it is helping prevent accidents and save lives.

Mr. Harper does not feel that a center median on Hwy 69 will be sufficient to save lives. We need a permanent barrier. Not having this barrier will increase the liability to the Town.

#### *9. ADJOURNMENT*

Council member Schumacher made the MOTION, seconded by Council member Baker, to adjourn the meeting, by electronic vote. MOTION carried with 6 ayes and 1 nay (Council member Nye). Mayor Skoog adjourned the meeting at approximately 7:45 pm.

ATTEST:

APPROVED:

---

Diane Russell, Town Clerk

---

Harvey Skoog, Mayor

STATE OF ARIZONA)  
COUNTY OF YAVAPAI) ss:  
TOWN OF PRESCOTT VALLEY)

CERTIFICATE OF COUNCIL MINUTES

I, Candice McElhaney, Deputy Town Clerk of the Town of Prescott Valley, Arizona, hereby certify that the foregoing minutes are a true and correct copy of the Minutes of the Regular Meeting of the Town Council of the Town of Prescott Valley, held on August 23, 2007.

I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 6<sup>th</sup> day of September, 2007

---

Candice McElhaney, Deputy Town Clerk