

**TOWN OF PRESCOTT VALLEY
REGULAR COUNCIL MEETING
MINUTES
August 14, 2008**

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. Pastor Hobby Wiles, Robert Road Baptist Church, gave the Invocation after which a special Mayor's Recognition appreciation certificate was read and presented to Pastor Wiles. The Pledge of Allegiance was said in unison as led by Pastor Wiles. The following council members were present for roll call:

Harvey Skoog	Mayor
Fran Schumacher	Vice-Mayor
Harold Wise	Council member
Bob Edwards	Council member
Mike Flannery	Council member
Mary Baker	Council member

Absent: Lora Lee Nye Council member

5. *ANNOUNCEMENTS & PRESENTATIONS*
 - a. *Chamber of Commerce new members, Marnie Uhl*

- Prescott Valley Chamber of Commerce Executive Director, Marnie Uhl, introduced Richard Kinn from Kin Care, 3501 N. Valorie Drive (775-2057). This is a home caregiver service.

Also introduced were Ronnie Mattern and Mary Heath with Metro Care Services. This is a service that caters to individuals with special needs. This business is located at the corner of Navajo and Florentine.

Marnie reminded everyone about the Business Health and Community Showcase this Saturday, August 16, at Tim's Toyota Center from 9 until 3. There are over 100 exhibitors and it is free to the public.

- Former Mayor, Carm Staker (1983 to 1985), reported that the Military Service Monument committee has selected a concept for the monument, which will be erected between the Police Department and the Civic Center. The monument is being built to honor the past, present and future veterans of our country. The committee has been selling bricks that will line the

sidewalk, t-shirts, and other assorted items to raise funds. The committee has been working with CASA to have a steak dinner fundraiser on November 9, 2008 at the CASA center, which will have a USO entertainment theme. Anyone interested in contributing or buying items can call 772-9563.

- Council member Edwards stated that the Punt Pass and Kick contest for all the young people will be held this Saturday, August 16, for anyone interested in attending. The location of this event is at Bradshaw Mountain High School at 8:30 am.

6. *CERTIFICATES*

a. Award of appreciation to Jim Fletcher for his service on the Building Board of Appeals

An award of appreciation was presented by Mayor Skoog to Jim Fletcher for five years of service on the Building Board of Appeals.

b. Certificate of appreciation to Linda Ables for 20 years of service

A certificate of appreciation was presented by Mayor Skoog to Linda Ables for twenty years of service as an employee of the Town of Prescott Valley.

c. Certificate of appreciation to Neil Wadsworth for 10 years of service

A certificate of appreciation was presented by Mayor Skoog to Neil Wadsworth for ten years of service as an employee of the Town of Prescott Valley.

d. Certificate of appreciation to Kathy Galbraith for 5 years of service

e. Certificate of appreciation to Paul Hines for 5 years of service

f. Certificate of appreciation to Laura Seifried for 5 years of service

g. Certificate of appreciation to Cheryl West for 5 years of service

Certificates of appreciation were presented by Mayor Skoog to Kathy Galbraith, Paul Hines, Laura Seifried and Cheryl West for their 5 years of service as employees of the Town of Prescott Valley.

7. *PROCLAMATION*

a. Prescott Valley's 30th Anniversary Celebration and presentation

Town Clerk, Diane Russell, read the Prescott Valley's 30th Anniversary Celebration proclamation and Mayor Skoog presented the proclamation to Linda Ables. Linda is the person present at this meeting who has been living in the Town of Prescott Valley the longest. Copies of the proclamation will be available to the others in attendance who have also been living in the Town for at least 30 years.

Town Manager, Larry Tarkowski, invited all employees who have been working for the Town of Prescott Valley for at least 15 years to come up and speak. Included was Alex Romero, Stuart Mattson, Sgt. Joe Cappelli, Shane Markley, Woody Lewis, Lyn Newton, Bruce Handley, Brian Kelly, Sgt. Bill Fessler, Ivan Legler and Mayor Skoog who reflected on the days when there were dirt roads, no mail service, no cable TV, leaks in the roofs of the Town buildings,

poor equipment, one traffic signal and old police cars. They also spoke of how they have enjoyed working for the Town of Prescott Valley and appreciated the opportunity to see all the changes throughout the years.

8. *Recess for refreshments*

Mayor Skoog recessed the meeting at 6:18 p.m. for refreshments in celebration of the 30th Anniversary celebration.

9. *Reconvene*

Mayor Skoog reconvened the meeting at 6:38 p.m.

10. *COMMENTS/COMMUNICATIONS*

No comments or communications were forthcoming.

11. *CONSENT AGENDA*

- a. *Approval of Minutes – July 24, 2008*
- b. *Accepting a Public Utility Easement from the Yavapai County Fair Association and Fairgrounds RV, LLC at Yavapai Fairgrounds to serve the Pepsi distribution warehouse*
- c. ~~*Accepting Public Utility and Drainage Easements for Phase III of the Valley View development from Wescap Investments, Inc. and Valley View III/Prescott Valley, LP—(Item pulled from this agenda)*~~
- d. *Accepting multiple Public Utility and Temporary Construction Easements for the Robert Road Improvements, Phase B, Spouse Drive to Tranquil (CIP#412.2)*
- e. *Authorizing the Mayor to sign Resolution No. 1598, abandoning an unneeded portion of a Public Utility Easement on Lot 1460, Granville Unit VI*
- f. *Authorizing the Mayor to sign the annual Agreement with the Yavapai Free Library District accepting pass-through monies in the amount of \$245,140.00*
- g. *Approving an Adopt-A-Park Letter of Understanding with volunteers from the Yavapai County High School for Antelope Park*
- h. *Consideration of approving PVPD proposed software purchase of, and conversion to, ADSi Records Management System*
- i. *Approving Accounts Payable for July 18 thru August 7, 2008*

Vice-Mayor Schumacher made the MOTION, seconded by Council member Baker, to approve the Consent Agenda as read, by electronic vote. MOTION carried with 6 ayes and 0 nays.

12. *NEW BUSINESS*

- a. *Consideration of reappointing Elmer Claycomb and Steve Jarpe to the Building Board of Appeals for terms renewable on July 31, 2010*

Council member Flannery reported that on July 31st three terms came up for renewal on the Building Board of Appeals. The three current members were sent a letter asking them if they would be interested in renewing their term as board members. Two existing board members returned their letter stating they are interested in renewing their terms. The third existing board

member, Jim Fletcher, returned his letter stating he is not interested in renewing his term. Mr. Fletcher has served on the Building Board of Appeals since October 1994 when he was appointed to serve an existing term and had been re-appointed five times for a total of 14 years as a board member.

Elmer Claycomb submitted his term renewal letter and would like to be re-appointed. Mr. Claycomb was originally appointed to the Building Board of Appeals on July 1996 and has chosen to continue serving on this board. Steve Jarpe also submitted his term renewal letter and would like to be re-appointed. Mr. Jarpe was appointed in October 2006 to fill an existing term and this re-appointment will be for his first full term.

Vice-Mayor Fran Schumacher and Council members Mike Flannery and Lora Lee Nye are recommending the re-appointments of Elmer Claycomb and Steve Jarpe to the Building Board of Appeals with a renewal date of July 31, 2010.

Council member Flannery made the MOTION, seconded by Vice-Mayor Schumacher, to appoint Elmer Claycomb and Steve Jarpe to the Building Board of Appeals to terms with renewal dates of July 31, 2010, by electronic vote. MOTION carried with 6 ayes 0 nays.

b. Consideration of appointing Donna Morgan to the Library Board of Trustees to a term renewable on June 30, 2011

Council member Flannery reported that on June 30, 2008, three terms came up for renewal on the Library Board of Trustees. Two Library Board members served their limit of terms and on June 26th, Irene Reed was re-appointed. Kenneth Fahlman was appointed to the Library Board of Trustees on June 26th to replace Doris Beck who termed out and Carol Popaden was appointed on July 24th to replace Tracy Foundas who resigned in June.

After interviewing the candidate, Vice Mayor Schumacher, Council Members Flannery and Nye are recommending the appointment of Donna Morgan to replace Sandy Pickens who termed out on the Library Board of Trustees for a term with a renewal date of June 30, 2011. There are currently no further vacancies to fill on the Library Board of Trustees, so this appointment will create a full board.

Council member Flannery made the MOTION, seconded by Vice-Mayor Schumacher, to appoint Donna Morgan to the Library Board of Trustees to a term with a renewal date of June 30, 2011, by electronic vote. MOTION carried with 6 ayes and 0 nays.

Council member Flannery made an appeal to the public. There is an opening for the Arts and Culture Commission. It has been advertised for some time. He would like to ask the viewing audience if they have any interest in serving on the Arts and Culture Commission, to please contact 759-3102 and speak to Victoria or Lea. Vice-Mayor Schumacher added that you do not have to be an artist to serve on the Commission. The person may have other attributes that may lend itself to the Arts and Culture Commission.

- c. Consideration of authorizing the Mayor to sign Resolution No. 1599 in support of the 2008 Transportation Enhancement Grant Application for the Prescott Valley Pipeline Multi-use Path Phase 3 and Resolution No. 1600 in support of the 2008 Transportation Enhancement Grant Application for SR 69 and Bradshaw Mountain Road Multi-use Path*

Public Works Director, Norm Davis, stated that 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 Public Works Department is submitting two TE applications for consideration in 2008 (Round 16). One is for the next phase of the PV Pipeline Multi-Use Path (locally administered), and the other for the Highway SR 69 and Bradshaw Mountain Road 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 and a \$5,000 ADOT administration fee for the PV Pipeline Multi-Use-Path; all costs associated with the Highway SR 69 Multi-Use-Path will be the responsibility of ADOT.

Mr. Davis brought attention to the Central Core Path and Hwy 69 Multi-Use Path. Those particular pathways are in place and they are being used today. He hopes, in the next 30 days, to bring forward the Bison Lane construction contract for award consideration. That particular funding was approved 4 years ago and the design is complete and awaiting the final review process.

In the past few months, Public Works and the Parks and Recreation Departments have cooperated on a brochure to showcase the urban pathways that have been put into place. These include the Central Core Path (from Mountain Valley Park to the Civic Center and past the Liberty Traditional School), which is approximately 2 miles long. The other trail is the Highway 69 Path, which includes 1.5 miles of multi-use path.

Council member Edwards asked about the PV Pipeline Multi-Use Path. Is that the one that is hooked up to the El Paso gas line or is that a different pipeline. The response was that it is the same one. It will be a co-use path with the El Paso gas easement. The exciting part is what it will provide for connectivity. The path will go right through the core of some of the most densely residential areas. This path will add a lot of mobility up to some of the schools up north and all the way to Lakeshore Drive and the parks system.

Mayor Skoog asked if there will be a walk under between Fain Road and Hwy 89a. The response was that we are going to stop at 89a. Future connectivity is planned in all areas.

Council member Flannery asked about the Bradshaw Mountain Road Multi-Use Path. Is there a ballpark figure on that? The response was that the limit that can be applied for is basically \$1,000,000.00. This particular path is estimates at around \$930,000.00. This path will be approximately three-quarters of a mile. Council member Flannery also asked where the ending point is. The response was at the school property line.

Council member Wise stated that this is another key to our transportation program. During this gasoline crisis, these paths will offer alternative modes of transportation. He also asked if segway vehicles may be considered to be used on these paths. The response was that motorized vehicles are prohibited from being used on these paths, which are considered to be sidewalks. This may, however, have to be comprehensively reviewed in the future.

Council member Wise made the MOTION, seconded by Council member Flannery, to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1599 in support of the 2008 Transportation Enhancement Grant Application for the PV Pipeline Multi-Use Path, Phase 3, and to sign Resolution No. 1600 in support of the 2008 Transportation Enhancement Grant Application for the Highway SR 69 and Bradshaw Mountain Road Multi-Use Path, by electronic vote. MOTION carried with 6 ayes and 0 nays.

d. Consideration of approving a Memorandum of Understanding (MOU) with the State of Arizona Land Department (ASLD) pertaining to application of water to Trust Land in the Prescott Valley area

Town Manager, Larry Tarkowski, pointed out that there has been a great deal of effort put into this project by Richard Parker, Community Development Director, Colleen Auer, Assistant Town Attorney, and Ivan Legler, Town Attorney. He applauded them for all of their work with the Attorney General's Office and State Land Department. This is unlike any other agreement that the State Land Department has done.

Richard Parker, Community Development Director, added that this is a very technical and detailed document that has been negotiated for a long period of time. Hats off goes to Ivan Legler and Colleen Auer for moving the process along.

In response to the limitations imposed by the declaration by the Arizona Department of Water Resources (ADWR) that the Prescott Active Management Area (PrAMA) is not at safe-yield for groundwater use, the Town of Prescott Valley has worked for several years to obtain alternative water supplies. This includes (a) contracting with the City of Prescott to obtain groundwater imported under ARS §45-555(E) from the Big Chino Sub-basin located outside of PrAMA, and (b) use of treated effluent (either directly or through recharge and withdrawal of potable groundwater).

As of December 7, 2004, Prescott and Prescott Valley entered into an Intergovernmental Agreement (IGA) for Prescott Valley to receive 4,000 acre feet of groundwater per year through the Big Chino Water Ranch Project. Under the IGA, Prescott Valley would pay its pro-rata share of the costs to (1) purchase the Ranch, (2) develop improvements needed to pump and transport the water, and (3) operate and maintain the project. Now that the project is 98% designed, Prescott and Prescott Valley are exploring alternative methods of financing, constructing and operating the project (including a public/private partnership).

Prescott Valley has also worked with ADWR to quantify its treated effluent and to develop documents and procedures to recharge and use this supply to obtain certificates of assured water supply (CAWSs) or for alternative uses. On July 17, 2006, ADWR issued Physical Availability Demonstration No. 20-402187.0000 (PAD) that says 2,724 acre-feet of water will eventually be physically available for CAWSs. And, on October 29-30, 2007, Prescott Valley

conducted the first-ever auction allocating such water and received a winning bid of \$24,650 per acre foot from Water Property Investors, LLC.

The Arizona State Land Department administers approximately 9,000,000 acres of federal land given to Arizona in trust for support of its common schools (Trust Land). Trust Land cannot be sold or leased except to the highest bidder at a public auction. Approximately 19,200 acres of Trust Land is located within the planning area of Prescott Valley, but the restrictions on development imposed by the safe yield declaration make it difficult for ASLD to administer this Trust Land. Application of water from the Big Chino Project (over the long-term) and from the recently-auctioned PAD water (over the short-term) would assist in this regard, and would help ensure efficient distribution of development within Prescott Valley. Further, the public auction process applicable to Trust Land will ensure that any water tied to Trust Land will be fairly allocated and priced according to market principles.

For approximately 18 months, Town staff has been discussing with representatives of ASLD the possibility of an agreement that would allocate a portion of Prescott Valley's Big Chino Project water to Trust Land in the Prescott Valley area in order to facilitate development of such land (to the extent development is otherwise appropriate) and to help ensure that said water is fairly allocated and priced according to market principles. In exchange, ASLD would expedite various applications for right-of-way easements and make provision for a future park within the Town boundaries. At the same time, ASLD and Prescott Valley would cooperate to pursue the public processes required for certain land use entitlements for various parcels consistent with recommendations contained in the *General Plan 2020*.

A draft agreement was discussed with the Council at the May 15, 2008 Work/Study session. After considerable internal review by ASLD staff and the Attorney General's Office, a final Agreement has now been reached for formal Council consideration.

Community Development Director, Richard Parker, gave special credit to Colleen Auer and Ed Dietrich (ASLD) for all of their efforts.

Town Attorney, Ivan Legler, also gave credit to Richard Parker for all of the extensive work he did working with the Arizona State Land Department in completing this project.

Vice-Mayor Schumacher asked if we are giving water to State Land (within Prescott Valley), and the State sells the land which is designated for schools, is there any way we can be assured of benefiting from this with our schools. The response was the land is entrusted to the State for the benefit of the schools. So their job is to maximize the auctioned value of that land. In this Agreement we are allowing them to do that by marrying water to the land. The proceeds that they gain from that sale are going to be increased by having an available water resource there for development purposes. The proceeds will then be used for the benefit of the schools. It was added that we are not giving them water. When the property is auctioned, the water similarly will be auctioned and we share in the increase in the value. The starting price for that auctioned water will be 10% higher than our most recent auctioned price. In other words, we are continuing on the path we started when we auctioned the effluent. Similarly the water will continue to be auctioned.

Vice-Mayor Schumacher said it is her understanding that the sale proceeds go to the State at large but not necessarily to this area. The response was that it will go to the State and Trust for

the greater benefit of the schools in the State. Their goal/mission is to maximize the value of the land and hold those funds in trust for the benefit of the schools. This is spelled out in the State Constitution. We will not have the ability to direct funds. There is no possibility of our getting any of this for our schools. The response was that there would be resistance if we tried to direct where the money goes. Through the Agreement, we have specified certain assets that will accrue to the Town. One in particular is the Agua Fria Park. This will come as a result of the sale of that property. We do reap some of the rewards. The various benefactors to the State trust are called out and council can not direct how the money is spent.

Council member Baker said that she hoped that the public is aware of the tremendous importance of this Agreement to the future development of Prescott Valley. The staff has worked together in their individual areas of expertise to accomplish this.

Council member Flannery added that he hopes that everyone understands that this is a landmark agreement that has been carved out by the staff and the State. The State has never gone down this path before. This is a template for the rest of the State and it is mutually beneficial for the local jurisdictions and State. The staff is to be commended for what has been done here. This is epic.

Council member Baker made the MOTION, seconded by Council member Flannery, to approve this Memorandum of Agreement with the State of Arizona (ASLD) with regard to application of water to Trust Land in the Prescott Valley area, by electronic vote. MOTION carried with 6 ayes and 0 nays.

- e. Consideration of approving an Intergovernmental Agreement with Yavapai County Flood Control District for 100 percent of the funding for Tani and Windsong Drives drainage improvement projects*

Norm Davis, Public Works Director, reported that the Yavapai County Flood Control District (YCFCD) levies a tax countywide for storm water management projects to improve storm water conveyance. The Town cooperates with YCFCD yearly through an Intergovernmental Agreement (IGA) to design and construct storm water management projects that benefit the Town of Prescott Valley. Two projects identified this year for funding are the Windsong Drainage Improvement project and Tani Drive Drainage Improvement project. Both projects are anticipated to be constructed this Fiscal Budget Year 08/09. This IGA would provide 100% of the funding necessary for these improvements in the amount of \$650,000.

Vice-Mayor Schumacher made the MOTION, seconded by Council member Flannery, to approve the Intergovernmental Agreement with Yavapai County Flood Control District for 100% of the funding for the Tani Drive and Windsong drainage improvement projects by electronic vote. MOTION carried with 6 ayes and 0 nays.

- f. Consideration of amending the Engineering Agreement with Risun Technologies in the amount of \$33,702.00 as part of the Phase III Wastewater Treatment Plant Improvement Project (WWTP E21.2)*

Utilities Operations Coordinator, Mark Kieren, stated that the Wastewater Treatment Plant was recently expanded and new control and alarm features were added to the plant. The pre-existing alarms and controls are still in operation and are not connected to the same computer/

control systems as the new controls and alarms. It is desired to combine all of the previously existing control and alarms with the new controls and alarms. Risun Technologies was involved in the control and SCADA work performed as part of the Phase III Wastewater Treatment Plant Expansion Project. They were then retained by the Town to evaluate the pre-existing controls and alarm features at the plant. That work was performed and it was determined that additional hardware was needed, along with some additional programming, to combine the systems. The current proposal from Risun to perform this work is \$33,702.00.

Adding the pre-existing alarms to the new system will allow the operators to use the new laptop computers and view all controls and alarms from remote locations – from home for example – to quickly determine the problem and respond accordingly. The current configuration requires the operator to first go to the plant to determine what the problem is before determining the proper course of action. The proposed modifications would decrease response time and could be the difference between a minor incident and a major event. In addition, combining the systems will reduce the number of computers and software needed to be maintained.

Vice-Mayor Schumacher made the MOTION, seconded by Council member Baker, to approve the Amendment to the Engineering Agreement with Risun Technologies in the amount of \$33,702.00, and approve a \$40,000 budget transfer as outline the fiscal analysis, by electronic vote. MOTION carried with 6 ayes and 0 nays.

g. Consideration of authorizing the Mayor to sign Resolution No. 1601 repealing Resolution 1592 and declaring its intent to form NCFD No. 1, set a public hearing on formation of NCFD No. 1, and designate a location to file any objections

Planner, Ruth Mayday, reported that during the May 1, 2008 Work/Study Session, Town Council discussed the possibility of forming a Community Facilities District to finance infrastructure improvements to serve commercial and residential properties adjacent to the existing Viewpoint and Pronghorn Ranch communities.

The proposed district is comprised of 20 parcels of land owned by 9 entities, and totals approximately 209 acres. It is located south of the Viewpoint and Pronghorn Ranch communities and north of Highway 89A.

Given the proximity of this land to residential developments (The Viewpoint, Pronghorn Ranch) and Highway 89A, it is likely that this area will develop as a mix of commercial and retail uses. However, this area currently lacks adequate wastewater and water facilities to serve the potential uses that could be developed by right in the subject area. No roadway exists to serve the properties west of Viewpoint Drive, and traffic volumes at the Viewpoint Drive/Pronghorn Ranch Road intersection are such that dedicated turn lanes and a traffic signal are warranted.

Proposed improvements for the district would include installation of water mains, a new off-site water storage tank, diversion of wastewater from existing lines to new lines, roadway extensions and widening, signaling of the intersection at Viewpoint Drive and Pronghorn Ranch Parkway, and other improvements deemed necessary.

On July 10, 2008, Town Council approved Resolution 1592, declaring its intent to form the “Viewpoint Community Facilities District” and setting the time, date, and location of the Hearing

on Objections to Formation as August 14, 2008 at or after 5:30 pm at the Council Chambers. At that time, Council expressed concern that the proposed name of the district might cause confusion for residents of the Viewpoint subdivision who could mistakenly perceive that they would be included in the proposed district.

Staff is now bringing forward for Council's consideration Resolution 1601. This Resolution, if adopted, will repeal Resolution 1592, due to a clerical noticing error, and declare Council's intent to form the district under the new name of "Northside Community Facilities District No. 1." This name change addresses Council's concerns about the potential for confusion associated with the previous name selected for the district. Ruth Mayday, Planner, confirmed for Council member Flannery that these steps were not being taken just to accommodate the CFD name change, but were also being taken due to the clerical noticing error.

Council is now asked to adopt Resolution 1601 which (a) repeals Resolution 1592 due to a clerical noticing error, (b) declares its intent to form NCFD No. 1, (c) sets September 11, 2008, on or after 5:30 p.m. MST at the Council Chambers in the Civic Center as the date, time and place of a hearing on formation of NCFD No. 1, and (d) designates the Town Clerk's office in the Civic Center as the location where objections to formation of NCFD No. 1 may be filed at or before 5:00 p.m. on September 10, 2008.

Council member Flannery made the MOTION, seconded by Council member Wise, to authorize the Mayor (or in his absence, the Vice Mayor) to sign Resolution No. 1601 repealing Resolution 1592 and declaring its intent to form NCFD No. 1, set a public hearing on formation of NCFD No. 1, and designate a location to file any objections, by electronic vote. MOTION carried with 6 ayes and 0 nays.

h. Consideration of authorizing the attorneys representing the Town and Fain Signature group in the Fulkerson case to finalize a settlement agreement that ensures no appeal of the Superior Court order dismissing the case, in return for each party covering its own litigation costs

Assistant Town Attorney, Colleen Auer, stated that on March 20, 2008, Judge David L. Mackey granted Defendants' motions to dismiss the lawsuit in its entirety. The Defendants then applied for an award of their attorney fees. On July 30, 2008, Judge Mackey granted \$12,939.00 for the costs of representing the individual Town defendants and \$54,340.00 to the Fain Signature Group. The Judge declined, however, to award attorney fees for the costs of representing the Town itself.

Now that the case is ready for entry of Final Judgment in favor of Defendants (and the beginning of the clock for filing any appeal), Plaintiffs have approached Defendants about settling the case along the same lines as had been offered earlier by Defendants (before the ruling on attorney fees)...no appeal of this favorable Judgment if all parties agree to bear their own costs. Based on that proposal, attorneys for the parties are preparing a settlement agreement which, among other things, will (a) stipulate to entry of Final Judgment in favor of Defendants per Judge Mackey's ruling; (b) require each party to bear its own costs of litigation; and (c) require each party to covenant not to appeal or contest the Final Judgment.

Vice-Mayor Schumacher commends everyone who worked on this, both inside and outside the Town. She is not happy with the solution but she realizes that this is a solution we have to do.

Almost \$500,000.00 has been spent on this, which could have been used for something else in the Town. She is sad that the union (UFCW) will not appeal it again so that they do not have to pay our legal fees, which she feels they should because they caused this to happen. She is not happy with the union because they tried to bully the Town from the beginning because of Walmart.

Council member Flannery stated that he is also unhappy because he did not feel this case had any merit in the first place. It was brought up as retaliation, as a vindictive action. The voters in this community voted for Walmart and this was an action against the community and it was an action against every citizen in Prescott Valley who voted in favor of rezoning the property for Walmart. We never felt that any of the financing was inappropriate in the first place. Council member Flannery said that we have a system that we cut our losses and we invite future law suits. He finds this troubling. By not going after the nearly \$500,000.00, and no costs being inflicted on the party filing suit (the union paid the costs), we are the deep pockets that invite future lawsuits. As a citizen and a representative of the citizens, he finds it very troubling that this is the system we live in right now. When you talk about the high costs of everything, that is exactly why it costs so much to do everything. We keep this cycle of nonsense going on. If the case had no merit in the first place, why was it allowed to go this far? We needed a team to pursue this because of the implications that needed to be stopped.

Council member Wise said that he appreciates the legal department and others who have been on our team. The League of Cities also supported us because it not only affected the Town of Prescott Valley but affected the financing of most of the towns and cities in the State of Arizona.

Council member Edwards stated that his opinion is that it was frivolous to start with and caused a split in the Town with groups of people who could not agree on something that should have never happened in the first place. He feels sorry for people who have to react with a personal agenda when they do not get their way. It is time that everyone in the community realizes that this was a slap in the face to the voters who voted to bring Walmart here in the first place. To have an outsider, who does not do business here (the union), feel that they needed to be involved should make those people take a good look at what this caused in their community and what kind of union is running their business.

Council member Baker says that she is sure everyone is relieved that this is over. She hopes that the union enjoys the sting of being defeated twice and that they recognize, somewhere down the road, that they should not take on cities in this regard. It cost us a lot of money but at the same time a lot of people won and she thanks all for the work they did.

Council member Baker made the MOTION, seconded by Council member Wise, to authorize legal counsel to finalize a settlement agreement in the *Fulkerson* case as proposed, by electronic vote. MOTION carried with 6 ayes and 0 nays.

13. COMMENTS FROM THE PUBLIC

No comments were forthcoming.

14. ADJOURNMENT

Vice-Mayor Schumacher made the MOTION, seconded by Council member Baker, to adjourn the meeting, by electronic vote. MOTION carried with 6 ayes and 0 nays. Mayor Skoog adjourned the meeting at 7:48 p.m.

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 Thursday, August 14, 2008.

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

Dated this 20th day of August, 2008

Candice McElhaney, Deputy Town Clerk