

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: November 7, 2013**

SUBJECT: Proposed MOU for Annexation & Sewer Service (Tapadero DWWID)

SUBMITTING DEPARTMENT: Community Development

PREPARED BY: Richard Parker, Community Development Director

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: a) MOU w attachments

SUMMARY/BACKGROUND: The Town Council is being asked to consider a Memorandum of Understanding (MOU) with the Tapadero Domestic Wastewater Improvement District for annexation into the Town and provision of wastewater services.

Background: At least 25 years ago a package wastewater treatment plant was constructed next to what (at the time) was La Fiesta restaurant on SR 69. The purpose was to service the restaurant and other residential structures on Tapadero Drive and Old Chisholm Trail in the Prescott Country Club. Over time, some or all of the users on Old Chisholm Trail are believed to have disconnected from the system and the specific identities of all current users are now uncertain. Also, for many years no statutory district was formed to operate this sewer system and the developer and successor operators had to do their best with inadequate funding.

In 1999 and 2000, a letter from ADEQ and the Yavapai County Environmental Services Department notified the owner of the parcel on which the package plant was located about environmental concerns that had developed (such as a failed leach field and effluent rising to the surface). At about that time, the operators of the plant indicated they would no longer manage the plant. This required other volunteer operators to step forward. Representatives of ADEQ and the County met with the parcel owner and system users to discuss the environmental concerns and explore potential solutions (e.g. creating a statutory district to fund a connection to the Prescott Valley wastewater system, perhaps using borrowed funds from the Arizona Water Infrastructure Finance Authority (WIFA)). Unfortunately, these efforts did not bear fruit.

On September 20, 2007, the owner of the parcel on which the package plant was located filed a lawsuit in Yavapai County Superior Court against the believed known users of the system for damages and equitable relief. As the litigation worked its way through the court system, the parties sought to avoid forced disconnections from (and abandonment of) the system. Then, on November 2, 2009 the County Supervisors approved an application by the believed known users of the system to form the Tapadero Domestic Wastewater Improvement District. Among other things, the purpose of the district was to finance and construct a connection to the Prescott Valley wastewater system as a condition of annexation into the Town. Unfortunately, the world-wide economic recession was in full swing by then and the prospects had dimmed for obtaining financing to make the connection (and be a basis for assessments against property within the district).

Now that the recession has eased (and property values have stabilized), the Tapadero DWWID Board has collected voluntary payments from the believed known users of the system in an amount sufficient to

construct a mainline connection to bypass the package plant and connect the properties on Tapadero Drive to the Town's wastewater system. The Board has called for public bids to construct the PV system connection for submittal and opening on November 5, 2013. With this in process (and, with an indication that the Board will take measures to collect and remit to the Town the required Buy-In Charges for past improvements by Quailwood Meadows and Southside CFD No. 1, and the required Wastewater System Capacity Charge) Town staff believes now is the time to annex the lots and public right-of-way within Tapadero DWWID and provide wastewater service to the old system users.

This Proposal: The proposed MOU provides that the Town will annex the lots and public right-of-way in Tapadero DWWID but will leave the old sewer system to continue to be owned, managed and operated by the district until such time as funds are available to upgrade the infrastructure and decommission the package plant. It is hoped this initial annexation may then be a catalyst for settling the litigation and decommissioning the plant. Additional annexations may then follow based on agreements between Tapadero DWWID and nearby landowners. Such agreements would provide the funds needed to upgrade the old sewer system.

More specifically, the MOU provides that Tapadero DWWID will (1) bid out, pay for and oversee final construction of the PV system connection, (2) adopt fees to be charged to each believed known user of the old sewer system sufficient to pay the Buy-in Charges and Wastewater System Capacity Charge over a 3 year period, (3) cooperate in the annexation process, (4) cooperate in the establishment of new Town wastewater accounts for each believed known user, and (5) continue to own, operate and maintain the old sewer system until such time as it is repaired, replaced or decommissioned. In return, the MOU provides that the Town will (1) accept for operation and maintenance the new PV system connection upon final construction, (2) within a reasonable period after accepting the PV system connection and adoption by Tapadero DWWID of necessary fees, complete the initial annexation of lots and right-of-way within Tapadero DWWID (expressly not accepting ownership, operation, or maintenance of the old sewer system until it is upgraded), (3) provide wastewater service to the annexed lots in accordance with applicable Town utility regulations, and (4) later accept the old sewer system once it is repaired (in the meantime helping Tapadero DWWID seek financing from WIFA by providing access at no cost to Town consultants).

OPTIONS ANALYSIS: The Town Council may adopt the MOU as drafted, suggest potential revisions prior to adoption, or decline to adopt the MOU.

ACTION OPTION: Motion to approve the MOU between the Town of Prescott Valley and the Tapadero DWWID, OR Motion not approve the MOU. **VOTE.**

RECOMMENDATION: Staff recommends approval of the proposed MOU between the Town and Tapadero DWWID.

FISCAL ANALYSIS: It is believed that the MOU as drafted provides an appropriate balance of risks that justify going forward with the initial annexation of the lots and right-of-way within the Tapadero DWWID. The Town typically does not annex developed property in the County until the infrastructure has been brought up to Town standards for acceptance and maintenance. Although the wastewater infrastructure has not yet been upgraded, it is sufficient for the Town to provide wastewater services (and the portion which will be under Town operation will be new). Monthly Town fees will be charged for wastewater service and it will be possible to apply Town regulations in order to collect said fees from individual customers. The up-front Buy-In Charges and Wastewater System Capacity Charge will be paid over time by the district and will be subject to enforcement against individual owners by the district (which is less certain than if the \$4,294.00 cost per lot were collected up front prior to service being provided), but staff believes this can and will eventually be collected by the district. Staff also believes

there is a good chance for future annexations of areas in PCC by developers who are anxious to have Town wastewater service. This suggests potential future state-shared revenues, construction TPTaxes, and wastewater system revenues.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____