

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: March 26, 2015**

SUBJECT: Proposed Non-Binding Agreement RCAC for Potential Diamond Valley Sewer District

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) RCAC Community Work Plan

SUMMARY/BACKGROUND: Residents of Diamond Valley (an unincorporated area of Yavapai County involving approximately 713 properties located immediately west of Prescott Valley) have recently reached out to Yavapai County, the Rural Community Assistance Corporation (RCAC, a federal agency), and the Town of Prescott Valley in an effort to address problems involving their wastewater. In turn, Yavapai County and RCAC have talked to Town staff about potential Town participation in the initial investigation into possible solutions. To that end, a non-binding “Community Work Plan” by RCAC has been presented to the Town Council for approval.

BACKGROUND: Prescott Valley has previously been involved with Diamond Valley. In 1991, Diamond Valley was receiving wholesale water from the Shamrock Water Company because significant amounts of arsenic had been found in the water pumped by Diamond Valley’s private water company. Shamrock eventually entered into an agreement with a successor water company (Diamond Valley Water User's Corporation (DVWUC)) on December 3, 1996. Under that agreement, Shamrock would deliver water from its wells to a single point, and DVWUC would distribute that water and charge escalating monthly rates (along with a one-time charge for new hook-ups). Shamrock was eventually acquired by Prescott Valley through its “Prescott Valley Water District”, and the Town began imposing its rates effective January 15, 2000. But, DVWUC was poorly managed and soon fell into arrears on the connection charges and then stopped making even the monthly user payments. The Town eventually joined with DVWUC customers and the Arizona Corporation Commission (ACC) in an administrative action that replaced the DVWUC manager with an outside contractor. This resulted in monthly payments resuming but still no pay down of the arrears. Eventually, the Town had to issue a notice that water delivery would be discontinued in Jan 2002. This had the desired effect of negotiations with the DVWUC manager and the ACC for a partial settlement. DVWUC would pay \$2,300 a month towards the arrears (until 2007) in addition to the other payments. Unfortunately, the Town continued to have difficulty getting information from DVWUC about active service connections and new building permits. The DVWUC manager was again replaced in 2005. Finally, on September 2, 2008, the ACC authorized DVWUC to transfer its assets to a newly-formed County improvement district called Diamond Valley Water District (DVWD). That same year the Prescott Valley Water District was merged into the Town. Thus, the Town continues to provide wholesale water to DVWD per the original December 3, 1996 agreement.

Another health issue has recently developed in Diamond Valley. Leachate from leach fields connected to individual septic systems has begun to appear in water meter boxes. This indicates that those septic systems are failing and suggests that a centralized wastewater collection and treatment system needs to be built. Unfortunately, a stand-alone system would be very expensive and property values in the

community probably do not support the required assessments. Therefore, community residents (and Yavapai County) have approached RCAC for assistance.

RCAC was formed to provide technical expertise to help small communities in the western United States develop and implement sanitary sewer projects. Obviously, one possibility for Diamond Valley might be to connect to Prescott Valley's sewer system (presumably at less cost than a stand-alone system). RCAC has, therefore, proposed a "community work plan" for Diamond Valley in cooperation with Yavapai County and Prescott Valley to explore the feasibility of forming another County district in Diamond Valley to apply assessments to build a collection system and pay the costs involved in connecting that system to the Prescott Valley sewer system.

ISSUES: This is not an isolated scenario. Similar problems in varying degrees have also occurred in other unincorporated areas adjacent to Prescott Valley. Shamrock Water Company historically provided these areas with water service, and the Town continues to provide water service today. But these areas either have individual septic systems on each lot or small package sewer systems for particular neighborhoods. And, some of these have failed and more are expected to fail as time passes. As a result, residents in these areas have approached Prescott Valley from time to time about possibly providing them with sewer service.

Prescott Valley is theoretically in a position to provide sewer service to these areas because it conducted a successful Town-wide sewer & road project between 1992 and 1996. In that project, the Town Council required essentially every existing property in Town to connect to the new system and imposed assessments on those properties to pay their share of the cost. Prescott Valley became one of only a handful of Arizona communities that successfully accomplished such a large scale project, and property values eventually increased dramatically as a result. However, the project was not accomplished without expenditure of considerable political, legal and administrative energy. Thus, the Town Council developed a policy of not annexing any new areas whose infrastructure hasn't first been brought up to Town standards (including already having a sewer system in place and having hard-surfaced streets).

Similarly, after the sewer system was in place some persons outside the Town limits argued that federal law required the Town to allow them to connect to the system without annexation since federal funds had been used to help finance it. However, the Town explained that such an argument only applied to EPA funding...not to the FmHA funding the Town had received. Forcing the Town to provide sewer service (in addition to water service) to adjacent areas would mean those areas never had an incentive to annex. It considers its sewer system as a mechanism to ensure future growth through orderly annexation. Besides, only inside its limits can the Town adequately exercise control by local ordinance over sewage collection (and pre-treatment). Although Arizona law would permit the Town to provide sewer service outside its limits, in that circumstance the service is considered "proprietary" instead of "governmental" and there would be less inherent control under the police power.

To avoid continual pressure to provide sewer service outside the Town limits (and thus avoid potential political and legal issues from inconsistent decisions), a formal policy was adopted through the July 26, 2001 intergovernmental agreement between the Town and PVWD saying that PVWD would only provide new water service outside the Town limits if the Town had made a conscious decision not to annex that area (and not provide sewer service). By implication, the Town would not provide sewer service outside its limits. Areas would need to be annexed before sewer service would be provided. This policy was subsequently reviewed and reconfirmed in Council discussions on July 14, 2005, May 25, 2006, September 28, 2006, August 28, 2008, and July 23, 2009.

Even with these policies in place, there has still been pressure from time to time for the Town to resolve sewer issues in adjacent unincorporated areas without requiring annexation. First, there is natural concern

for the significant environmental hazards being faced by our immediate neighbors and the potential for such hazards to eventually adversely impact the Town itself. Second, there has been an argument that there would be additional sewer revenues and more wastewater going through our treatment plant (and being treated and recharged for eventual use as water credits). However, these arguments have not been considered sufficient to balance out the benefits that come from annexation (including additional state-shared revenues). Thus, to-date the Town's connection of already-developed areas to its sewer system has only been in the context of annexation. Between 1998 and 2001, the Town annexed 131 lots served by the Prescott East sewer package plant and assisted in decommissioning that package plant and connecting the lots to the Town system. In 2003, the Town entered into agreements to annex and provide sewer service to approximately 166 units in the existing mobile home park known as the Villages and approximately 206 units in Orchard Ranch. Between 2003 and 2004, the Town created the Raven Ridge Community Facilities District to apply assessments to approximately 174 units in Unit 6 of Prescott Country Club to decommission a package sewer plant and connect the properties to the Town system (said Unit having previously been annexed into the Town in 1994). And, in 2013 the Town entered into a Memorandum of Understanding with the Tapadero Sewer District (approximately 20 lots in Prescott Country Club) whereby its package sewer plant would be decommissioned and the District would annex certain lots and connect them to the Town's sewer system. It would still operate the antiquated collection system until it was upgraded.

THIS ACTION: The proposed non-binding "Community Work Plan" with RCAC provides that the Town will assist by providing staff time and meeting facilities and RCAC will conduct community sampling in Diamond Valley to see if there is interest in creating a County sewer district. If so, RCAC will then assist in creating such a district and then assist in trying to reach an agreement with the Town for annexation and connection to the Town sewer system. Approving the non-binding "Community Work Plan" would not require the Town to enter into a subsequent agreement for annexation and connection to the Town sewer system.

OPTIONS ANALYSIS: Town Council may approve the Community Work Plan, direct staff to make modifications to the Work Plan prior to approval, OR decline approval.

ACTION OPTION: Motion to approve the attached Community Work Plan with RCAC, **OR** Motion not to approve the Community Work Plan. **VOTE.**

RECOMMENDATION: Staff recommends approving the attached Community Work Plan with RCAC.

FISCAL ANALYSIS: The Town has generally been in favor of annexing adjacent unincorporated areas of Yavapai County because of the potential for an increased share of state shared revenues. Of course, this benefit must be analyzed in each case against the costs of providing additional general fund services to those areas. There is also the potential for increased utility revenues and (in the case of connection to the sewer system) increased wastewater flows which may eventually be treated and recharged and made available as increased water credits. Of course, this benefit also has an impact on capacity in sewer trunk lines and the sewer treatment plant and care would need to be taken for adequate capacity charges to be applied in order to be able to finance the loss of that capacity (and the need to eventually replace it). These and other considerations must be made in each time an area is considered for annexation and connection to the sewer system. At this stage, staff does not know whether it is ultimately in the Town's interest to annex the Diamond Valley area. However, staff is in favor of cooperating with Diamond Valley residents, Yavapai County, and RCAC in exploring the possibility.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____