

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: July 22, 2010**

SUBJECT: General Orders Re Enforcement of Federal Immigration Laws

SUBMITTING DEPARTMENT: Police

PREPARED BY: Jim Maxson, Police Chief

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

ATTACHMENTS: (a) Resolution No. 1710

SUMMARY/BACKGROUND: In 2002, the Police Department conducted a comprehensive review and revision of its Department policies. As part of that process, the Town Council adopted Ordinance No. 530 which allowed revisions of the new General Orders by the Police Chief and the Town Manager, without formal Council review, except for certain listed policies which were considered “high risk”. Those would continue to be reviewed, adopted and amended by Council resolution. The list included policies related to “Immigration Law Enforcement”, and the policies in that regard adopted by the Council in 2002 limited local enforcement of federal immigration laws.

Nearly eight years later, Governor Brewer has signed into law S.B. 1070 (subsequently amended) which is intended “to discourage and deter the unlawful entry and presence of aliens” in Arizona by making “attrition through enforcement the public policy of all state and local government agencies”, effective July 29, 2010. She has also issued Executive Order 2010-09 which required AZPOST to establish training materials for police officers at all levels to provide guidance on enforcement of the law, including the provision which says that race, color or national origin alone cannot be grounds for reasonable suspicion to believe that federal immigration law has been violated.

Among the many provisions of S.B. 1070 (as amended) is authority for any legal resident to sue in superior court to challenge any official or agency that adopts or implements a policy that limits or restricts enforcement of federal immigration laws to “less than the full extent permitted by federal law”. If such a suit is successful, the agency is subject to a civil penalty between \$500 and \$5,000 for each day the policy remains in effect after the suit is filed.

A number of lawsuits have been filed against S.B. 1070 (as amended), including a recent suit by the United States to declare the law null and void as a violation of the Supremacy Clause and the Interstate Commerce Clause of the U.S. Constitution, and to enjoin application of the law. There will be considerable uncertainty up to July 29, 2010 (and potentially afterward) about the applicability of S.B. 1070 (as amended). However, staff is suggesting that it is prudent now to repeal the two General Orders which, on their face, limit enforcement of federal immigration laws, and to arrange during July for Town peace officers to view the materials that have been prepared by AZPOST. In the meantime, staff will be vigilant in tracking the status of S.B. 1070 (as amended) up to and after July 29, 2010.

OPTIONS ANALYSIS: The Council may adopt Resolution No. 1710 repealing the designated General Orders, suggest revisions to the Resolution which simply amend the designated General Orders, OR decline to adopt Resolution No. 1710.

ACTION OPTION: Motion to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1710 repealing General Orders 1/390 and 4/264.50 regarding enforcement of federal immigration law, **OR** Motion not to approve Resolution No. 1710. **VOTE.**

RECOMMENDATION: Staff recommends authorizing signature of Resolution No. 1710 repealing the designated General Orders.

FISCAL ANALYSIS: Repeal of the designated General Orders will remove any argument that the Town has a policy in violation of S.B. 1070 (as amended) which would encourage litigation against the Town and potential civil penalties.

REVIEWED BY:

Management Services Director _____ Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____