

To: Prescott Mayor, City Council and City Manager
From: Citizens Water Advocacy Group
Date: August 19, 2019
RE: Draft Water Policies



The Citizens Water Advocacy Group (CWAG) is a local citizens group vigorously advocating for a sustainable water future for the Prescott Active Management Area and for protection of the upper Verde River. CWAG uses the best available science to educate citizens and to influence governmental decision-making by identifying sensible courses of action.

Because CWAG has numerous serious concerns about the proposed major changes to water policies, we are submitting these written comments to you, the City of Prescott leadership. We look forward to your written responses to the issues we raise and welcome the opportunity to discuss each of our concerns in person.

Executive Summary:

CWAG has carefully reviewed the proposed new water policies. As is evident from the following discussion, we support several of the City's policy directions. However, with respect to diverting the Groundwater Allowance to new development and the proposed policies for water and sewer connections and providing water outside of the City, our concerns are substantive and extensive. In fact, we fear that the proposed policies will result in actions by stakeholders that are contrary to our mission of achieving a sustainable water future for the Prescott AMA. CWAG asks the City leadership to slow down: justify the need and explain the impacts of the policies, and seek public comment.

Flawed Process:

In general, the proposed new policies are a collection of fragments unsupported by a thorough logical analysis. The new water policies represent major changes that deserve a more careful approach.

To this point, the City's process to introduce the proposed policies has been to hold Council Study Sessions with staff presentations. Study Sessions are for the Council, not the public. Study Sessions are not public transparency: the public has 3 minutes to make comments and ask questions on a complex issue. Typically, we receive no comment from the Council and no answers to our questions. This is inadequate. At Study Sessions, draft policies are announced; the public has no input in the policy development and we can't get questions answered. The current process has created public suspicion, conspiracy theories, and lack of trust in City leadership.

A more effective approach would be to present to the Council Water Issues Subcommittee, the public, and stakeholders a set of documents that describe the problems the City leadership hopes to solve, then present draft solutions, rationales, and analyses of impacts on various stakeholder groups. Next, ask the public for written comments and publicly post written responses. Conduct public information meetings, and finally refine the draft proposals as appropriate.

CWAG requests that the City leadership step back and adopt the above process for introducing the new policies.

Lack of Analysis:

The draft policies do not include any justification or evidence of how the proposed approach would solve the (unstated) problems. There is no analysis of the impacts on stakeholders, taxpayers, citizens, developers, general quality-of-life, growth rates, costs, safe yield, and the long-term viability of the Little Chino Aquifer – our primary water source.

CWAG requests that the City leadership provide written justifications and an impact analysis for the proposed policies.

Rush to Approve:

The schedule to study and vote on the policies is far too aggressive. It appears that the City leadership is steamrolling the approval process when, as it turns out, there is much that has not yet been thoroughly considered. Citizens have noticed the unusual rush and are asking CWAG “What else is going on here?” Why are these policies being fast-tracked with inadequate public involvement?

CWAG requests that you slow down the schedule to permit logical planning and better public understanding and comment. City leaders too need more time to digest and consider the proposed policies.

Not a Plan:

The first sentence in “Draft-Policy” is *“This policy is intended to be a long-term plan to direct City staff in managing the City’s finite water supplies and to assure potential applicants that they can rely on a consistent set of rules when applying for water service.”*

This is not a plan, but a list of procedures and rules. A plan includes an overall vision describing the desired result. A plan has goals with milestones and dates. A plan has strategies to achieve the goals. A plan includes monitoring procedures and adaptive management measures. The City needs a water management plan that looks ahead for a decade or more, annually evaluates progress toward that goal, and changes policies as needed to achieve the goal. This is basic busi-

ness management. Albuquerque provides a great example of a functioning, successful water management plan and planning process.

CWAG requests that the City develop a long range water management plan.

Possibly Illegal Allocation of Groundwater Allowance to New Development:

The 2009 ADWR Decision and Order that awarded and quantified Prescott's Designation of Assured Water Supply status calculated the Groundwater Allowance as 9,466.02 afy and "Alternative Water" as 7,041.42 afy. The Groundwater Allowance was calculated based on lots platted as of January 12, 1999, the date that Director Rita Pearson issued a Final Decision and Order that the Prescott Active Management Area was no longer at safe-yield:

"the Director of the Department has concluded that the commitment of additional groundwater to future subdivisions would threaten the reliability of the water supply to those future subdivisions, as well as to existing groundwater users. The Prescott AMA, therefore, has been found to be no longer at safe-yield and water providers and future subdivisions which apply to the Department for an Assured Water Supply will be required to acquire renewable water to meet the subdivision's needs, in accordance with A.A.C. R-12-15-705(F), as that rule was amended by 1998 Ariz. Sess. Laws, Chapter 86."

CWAG believes that the legally intended use of the Groundwater Allowance is to permit Prescott to provide water to "grandfathered" lots existing at the time of the 1999 declaration, **and only to those properties**. The City of Prescott agreed with this analysis when the Council approved its "Calendar Year 2018 Water Management Policy" with Resolution No. 4411-1620. This policy stated: "*Groundwater: The indicated quantity, 9,466.02 acre-feet (AF), is **not a resource that can be allocated by the City**, rather an amount recognized by the State in accordance with Arizona Revised Statutes. This component, supporting the majority of water needs within the City limits that were recognized circa 1998, is referred to as "current and committed demand."* (emphasis added).

The Prescott City Council received reports from Consultants Herb Dishlip and Gary Woodard (who were not available to the public for comments and questions) that analyzed the current and future status of COP's water resources. During Dishlip's presentation, both Dishlip and various city officials stated that the City has over 16,000 afy of authorized pumping, that only 6,700 afy is currently pumped, and concluded that the City had enough water to grow to "buildout" without the Big Chino Pipeline. These statements indicate that the City believes that the unused portion of the Groundwater Allowance can be allocated to new construction, yielding a total of 16,507.44 afy (the sum of the Groundwater Allowance and the Alternative Water in the 2009 D&O) to existing **and new** subdivisions. Since Prescott pumped approximately 6,700 af in 2018, COP leadership now apparently believes they have approximately 9,800 afy of remaining groundwater to allocate to new water-service connections. CWAG is concerned that COP's attempt to allocate the Groundwater Allowance for new water connections will increase the overdraft by nearly 10,000 afy.

This is the ***foundational assumption*** underlying the draft water policy that proposes to serve water outside the city limits, even without annexation. Yet, the City leadership provided no legal justification for their assumption. This questionable assumption was not announced in study sessions or in the draft documents. Citizens are asking CWAG to explain. There is a growing suspicion that something else is going on here. Why did the City leaders neglect to mention this controversial assumption?

The City leaders' interpretation is inconsistent with the management plan for the Prescott AMA, with the intent of the Groundwater Management Act, and the Assured Water Supply Rules.

CWAG requests that the City leaders defer any further action on the draft water policies until they provide legal justification permitting the allocation of unused Groundwater Allowance to new water customers.

Providing Water Outside City Limits

This is an extremely controversial proposal. The draft policy provides no explanation of the need, the rationale, or an analysis of the impacts. The map in the draft policy is unreadable. Why is this proposed? What is the need? What are the impacts to stakeholders? The explanations offered do not make sense.

We are told that this will reduce the overdraft by reducing the need for septic tanks and collecting effluent for recharge. However, this is unlikely: a) Prop 400 would not apply to areas that are not annexed into the City; consequently treated effluent would be legally available for re-use and would not be returned to the aquifer; or b) Prescott will use the recharge credits to support new development.

We were told that providing water outside city limits would improve water quality by eliminating septic systems. This is possible for septic systems near creeks or shallow water-table areas. These areas are largely in the city limits and would be infill developments that must connect to the city sewer system anyway so this argument is moot. The claimed improvement in water quality is unlikely for areas north of the airport where the water table is deep.

We were told that it is cheaper for the city not to annex because the City would not have to provide basic services. What happened to the "Growth pays for growth" idea? New developments require infrastructure, and ultimately the consumer pays for it through county taxes if in the county, or through city taxes and impact fees if in the City. Every subdivision will need to comply with state and county or city subdivision rules. How does this help home buyers and homeowners? How does this impact developers? How does it impact the County? Has the City received approval from Yavapai County for this idea?

The information vacuum surrounding this proposal has created suspicion and distrust from citizens, who have asked CWAG these questions:

a) Residents of these out-of-city service areas now pay a 30% surcharge for water. Is the City attempting to increase its water enterprise revenue by overcharging homeowners?

b) Is this an attempt to get around Prop 400 public notice and effluent requirements by avoiding annexation so the City can receive recharge credits?

c) Is this part of a negotiated solution to the AZ Eco South Annexation that would protect the Granite Dells?

d) Is this a pro-growth policy designed to support development and line the pockets of developers with city resources?

e) Doesn't this policy remove or weaken controls on development and increase the growth rate?

f) Why should I conserve water if it will be used to promote growth?

g) What is wrong with annexation? The City is providing water & sewer, so what is the problem with simply annexing the area?

h) The fiscal analysis is just another thing that will be manipulated to cut deals and play favorites.

Inasmuch as the City has not adequately explained the reasons for the proposed policy to provide water service outside the City, CWAG has been unable to answer these questions. The lack of information has contributed to an atmosphere of distrust and suspicion between citizens and the Council.

CWAG requests that the City truthfully and accurately answer all these questions. Further, we request that the City leaders suspend consideration of this policy until they can provide an explanation of the need and benefits along with an analysis of the impacts on stakeholders.

No Analysis of Safe Yield:

The draft policies focus entirely on Prescott and neglect to recognize that the proposals have a substantial effect on the management goal — safe yield — for the AMA. Prescott shares the groundwater resource with the other AMA communities, so Prescott must consider the implications of its policies on other communities.

CWAG requests that the proposals be updated to include impacts on the aquifer, on safe yield, and on other groundwater users.

Sewer Policy Unenforceable:

CWAG supports the proposed prohibition on new septic systems.

CWAG supports the general goal of connecting existing septic systems to the sewer system. However, we are concerned that the proposed policy is incomplete. There is no analysis of the impacts on citizens, and we are concerned that the policy creates an unacceptable financial burden for citizens and/or the City. Much work needs to be done here. CWAG requests that the City leaders withdraw this policy until they develop sensible financial assistance programs for affected property owners that are justified by a cost/benefit analysis.

The proposed requirement that new water customers return at least 50% of potable water deliveries as wastewater is unenforceable – does the city propose to meter the wastewater from each connection? Also, the 50% figure is too low. City water reports routinely show wastewater recovery over 60%. Landscape water use is the major loss point because water applied outdoors to plants evaporates and cannot be recovered. If the City adopted a policy that new connections cannot use municipal water outside after a reasonable plant establishment period, the wastewater recovery ratio would increase substantially. This would complement the proposed requirement for only drought-tolerant plants.

CWAG requests that the City leaders revise the draft sewer policy and resolve the above issues.

Landscape Policy:

CWAG supports the requirement to use drought-tolerant plants. We suggest that this policy be modified to include:

- a) the provisions in the CWAG Landscape Policy (attached)
- b) No new golf courses are permitted. Existing golf courses will be restructured to minimize water use by reducing irrigated areas or using artificial turf.
- c) Homeowner Associations are prohibited from banning, limiting or increasing the cost of rainwater harvesting or requiring water-intensive landscaping.

Administration of Water:

CWAG supports the administrative approval of small amounts of water to new development, but the 5 af limit is too high. We suggest a 1 af limit for clerical approval. We are concerned the proposal to discontinue water contracts is an invitation for abuse and favoritism, plus it will make it difficult to track the amount of water awarded by the City. Additionally, this policy will remove a useful control on the rate of growth by making water available at any time.

Conservation Incentives:

CWAG supports the proposed improvements to the water conservation incentive program. We suggest that hot-water recirculation be added as a requirement for all new construction and as an incentive for existing customers. We also suggest that the City prohibit gray water use for all homes receiving municipal water.

Conclusion:

CWAG has carefully reviewed the proposed changes with respect to Prescott's water management policies. As is evident from the above discussion, we support several of the City's policy directions. However, with respect to diverting the Groundwater Allowance to new development and the proposed policies for water and sewer connections and providing water outside of the City, our concerns are substantive and extensive. In fact, we fear that the proposed policies will result in actions by stakeholders that are contrary to our mission of achieving a sustainable water future for the Prescott AMA.

We look forward to your written responses to the issues we raise and welcome the opportunity to discuss each of our concerns in person.

A handwritten signature in black ink that reads "Gary Beverly". The signature is written in a cursive, flowing style.

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