

## A G E N D A

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD SEPTEMBER 21, 2010, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER.
- II. ROLL CALL.
- III. PLEDGE OF ALLEGIANCE.
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER—THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. CALL TO THE PUBLIC—This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02.(A).(H).) Comments are limited to a 5 minute time period.
- VI. PRESENTATION OF PLAQUE OF APPRECIATION FROM THE U.S. CENSUS BUREAU.
- VII. PROCLAMATION—VERDE RIVER DAYS.  
  
*Comments regarding items listed on the agenda are limited to a 5 minute time period per speaker.*
- VIII. OLD BUSINESS—None.
- IX. CONSENT AGENDA
  1. GRANT OF UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE FOR RECREATION CENTER OUTDOOR POOL.
- X. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.
  1. PUBLIC HEARING REGARDING THE PROPOSED QUAIL CANYON ANNEXATION.

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2. RESOLUTION NUMBER 2539–AUTHORIZING AN AGREEMENT FOR THE PURCHASE OF THAT CERTAIN REAL PROPERTY IN OLD TOWN COTTONWOOD KNOWN AS GARDNER’S RECYCLING, YAVAPAI COUNTY ASSESSOR’S PARCEL NUMBERS 406-36-021A, 406-36-021B, 406-36-023, 406-34-010, AND 406-34-011. PURSUANT TO A.R.S. 38-431.03.A.3, A.4, AND/OR A.7, THE CITY COUNCIL MAY VOTE TO CONVENE IN EXECUTIVE SESSION IN ORDER TO CONSIDER ITS POSITION, RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY, AND/OR INSTRUCT ITS REPRESENTATIVES REGARDING THIS MATTER EITHER PRIOR TO OR IN LIEU OF TAKING LEGAL ACTION ON THIS ITEM.
  
3. RELEASE AGREEMENT WITH SERGEANT DARRIN HARPER. PURSUANT TO A.R.S. 38-431.03.A.3 AND/OR A.4, THE CITY COUNCIL MAY VOTE TO CONVENE IN EXECUTIVE SESSION IN ORDER TO CONSIDER ITS POSITION AND/OR RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING THIS MATTER EITHER PRIOR TO OR IN LIEU OF TAKING LEGAL ACTION ON THIS ITEM.

XI. CLAIMS & ADJUSTMENTS.

XII. ADJOURNMENT.

The Cottonwood Council Chambers is accessible to the disabled in accordance with Federal “504” and “ADA” laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council may attend either in person or by telephone conference call.



## PROCLAMATION

WHEREAS, the Verde River is a riparian resource that winds its way through the heart of Cottonwood and the Verde Valley; and

WHEREAS, the citizens of Cottonwood cherish our natural environment; and

WHEREAS, Cottonwood's most precious natural resource, the Verde River corridor, reflects our community, who we are, and why we live here; and

WHEREAS, the Verde River corridor is a welcome and essential bed and breakfast for Neotropical birds on the arduous migration path between northern and southern Americas; and

WHEREAS, more than 340 bird species have been recorded flying, trilling and resting along the green riparian pathway and some of the highest breeding bird densities of any North American habitat exist in the Verde River riparian area; and

WHEREAS, the Verde River is a unique and important environmental and economic resource. It contains a significant amount of the riparian habitat left in Arizona where 85 percent of all wildlife in the area looks for sustenance and is critical to the survival of numerous native aquatic and terrestrial species; and

WHEREAS, the Verde River is a significant water supply and recreational corridor; and

WHEREAS, we risk losing this treasure if we don't strategize together to preserve it for future generations; and

WHEREAS, Arizonans must continue our work to successfully find accommodation for all the roles that rivers play, and

WHEREAS, Verde River Day was organized in 1988 to promote awareness of the Verde River's distinctive riparian habitat; and

NOW, THEREFORE BE IT RESOLVED that I, Diane Joens, Mayor of the City of Cottonwood, Arizona, do hereby proclaim September 25, 2010 as

### **Verde River Day in the City of Cottonwood**

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Diane Joens, Mayor

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: September 21, 2010  
**Subject: Cottonwood Community Recreation Center, Exterior Pool**  
Department: Public Works/Engineering  
From: Scott Mangarpan, Public Works Project Manager

**REQUESTED ACTION**

Council approval of one utility easement for APS as required to provide service access to the Recreation Center exterior pool's electrical transformer.

**If the Council desires to approve this item the suggested motion is:**

Move that council approve the utility easement for APS as required to provide service access to the Recreation Center exterior pool's electrical transformer.

**BACKGROUND**

This utility easement is required to provide service access to APS for their new transformer that feeds the Recreation Center exterior pool.

**JUSTIFICATION/BENEFITS/ISSUES**

APS requests approval of utility easement to allow for future maintenance access.

**COST/FUNDING SOURCE**

N/A

**REVIEWED BY:**

City Manager: \_\_\_\_\_

City Attorney: \_\_\_\_\_

**ATTACHMENTS**

APS Utility Easement for parcel 406-42-252B

Please Place in APS Folder  
SW-34-16N-3E  
APN# 406-42-252B  
WA1486  
JGF

## **CITY OF COTTONWOOD-APS UTILITY EASEMENT**

**CITY OF COTTONWOOD**, a municipal corporation, (hereinafter called "Grantor"), is the owner of the following described real property located in Yavapai County, Arizona (hereinafter called "Grantor's Property"):

### **SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement, 10 feet in width or as further described in attached exhibits at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property described as follows (herein called the "Easement Premises"):

### **SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF**

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; and install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities solely for Grantee's own use incidental to supplying electricity (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"). Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises. However, Grantor reserves all other rights, interests and uses of the Easement Premises that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving,

sidewalks, landscaping, driveways, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises without the prior written consent of Grantee, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair.

Grantee shall not have the right to use the Easement Premises to store gasoline or petroleum products, hazardous or toxic substances, or flammable materials; provided however, that this prohibition shall not apply to any material, equipment or substance contained in, or a part of, the Grantee Facilities, provided that Grantee must comply with all applicable federal, state and local laws and regulations in connection therewith. Additionally, the Easement Premises may not be used for the storage of construction-related materials or to park or store construction-related vehicles or equipment except on a temporary basis to construct, reconstruct, replace, repair, operate, or maintain the Grantee Facilities.

Grantor shall maintain a clear area that extends 3 feet from and around all edges of transformer pad and a clear operational area that extends 10 feet immediately in front of transformer opening. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed or permitted by Grantor within said areas. Grantee is hereby granted the right to trim, prune, cut, and clear away trees, brush, shrubs, or other obstructions within said areas.

Grantee shall exercise reasonable care to avoid damage to the Easement Premises and all improvements thereon and agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area, including without limitation, all pavement, landscaping, cement, and other improvements permitted within the Easement Premises pursuant to this easement will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

Grantor reserves the right to require the relocation of Grantee Facilities to a new location within Grantor's Property; provided however, that: (1) Grantor pays the entire cost of redesigning and relocating Grantee Facilities; and (2) Grantor provides Grantee with a new easement in a form and location acceptable to Grantee and at no cost to Grantee. Upon the acceptance by Grantee of a new easement and after the relocation of Grantee Facilities to the new easement area, Grantee shall abandon its rights to use the Easement Premises granted in this easement. The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

If any of Grantee's electric facilities in this easement are not being used or are determined not to be useful, Grantor may request that the facilities that are no longer needed be removed and that portion of the easement be abandoned. Grantee will execute and record a formal instrument abandoning the easement, or a portion thereof. Any facilities that are determined to still be needed for Grantee's electrical system can be relocated pursuant to the above relocation requirements.

Grantee shall not have the right to transfer, convey or assign its interests in this easement to any individual, corporation, or other entity (other than to an affiliated entity of Grantee or an entity that acquires



**EXHIBIT "A"**

A portion of the Southwest quarter, Section 34' Township 16 North, Range 3 East, G&SRB&M, Yavapai County, Arizona, and more particularly described as follows:

Commencing at the West quarter corner of said Section 34;

Thence North 89°13'11" East along the North line of said Southwest quarter, a distance of 778.71 feet;

Thence South 00°48'51" East, a distance of 523.96 feet to the true point of beginning;

Thence South 45°51'16" East, a distance of 455.22 feet;

Thence South 00°46'45" East, a distance of 474.17 feet;

Thence South 89°10'04" West, a distance of 24.84 feet to a point on the East line of PALATKA ACRES, a subdivision recorded in Book 10, Page 40 thereof in the office of the County Recorder of Yavapai County;

Thence North 00°03'10" West, along the East line of said PALATKA ACRES, a distance of 125.15 feet to the Northeast corner of said PALATKA ACRES;

Thence South 89°42'40" West, along the North line of said PALATKA ACRES, a distance of 272.28 feet;

Thence North 03°04'31" West, a distance of 668.73 feet to the POINT OF BEGINNING.

**EXHIBIT "B"**

Said easement being 10.00 feet in width, lying 5.00 feet on each side of the following described centerline:  
Commencing at the Southwest corner of that certain parcel more particularly described in **EXHIBIT "A"**;

Thence North 89 degrees 42 minutes 40 seconds East, a distance of 157.41 feet;

Thence North 00 degrees 43 minutes 29 seconds East, a distance of 229.06 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing North 00 degrees 43 minutes 29 seconds East, a distance of 18.59 feet to the **terminus** of this easement.

REGISTERED

Approved by Navajo County Board of Supervisors on the 20th day of April, 1948



Approved Joseph S. Dwyer  
Superintendent Navajo County Engineer

STATE OF ARIZONA }  
COUNTY OF YAVAPAI } 19

BEFORE ME BY THREE PRESENTS,  
I, the undersigned, Ernest Garrison and Jennie W. Garrison, husband and wife, hereby certify that we are the owners of that portion of the

land of Section 34, T19N, R3E, E11S, of the Town of Cottonwood, Navajo County, Arizona, within the town of Cottonwood, as shown on the plat, and we have caused

dated the 20th day of April, 1948

Ernest Garrison, Sr.  
Jennie Garrison, his wife

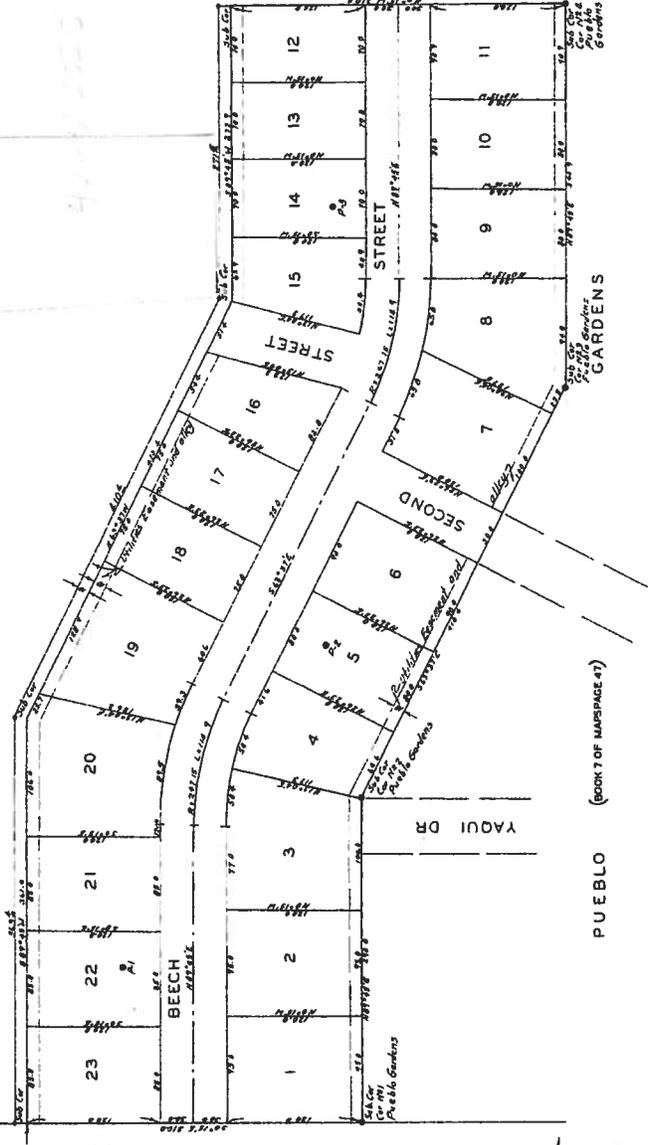
STATE OF ARIZONA } 20  
COUNTY OF YAVAPAI }

The above instrument was acknowledged before me this 29th day of April, 1948 by Ernest Garrison and Jennie W. Garrison, husband and wife,

My Commission will expire July 1, 1947

Ernest Garrison, Sr.  
Jennie Garrison, his wife

TOWN OF COTTONWOOD  
STREET  
MAIN



PUEBLO (BOOK 7 OF MAPS PAGE 47)

33 34 T. 19N. R. 3E

This plat was approved by the Mayor and Common Council of the Town of Cottonwood Arizona at a meeting held on the 19th day of June, 1948, at which time the following resolution was adopted:

Resolved for individuals lot acreage disposal under State and County Health Departmental Regulations

This is to certify that the survey and subdivision of the premises shown herein were done under my direction during April, 1948

George S. Blount  
Certified Licensed Land Surveyor



1115  
I am not a holder of any title  
George S. Blount  
June 17, 1948  
1410 S. Main St.  
Tombahpach, Arizona  
No. 40



APRIL 1948  
SCALE 1" = 50'  
JAMES H. HOWARD & ASSOCIATES  
REGISTERED LAND SURVEYORS  
YAVAPAI COUNTY, ARIZONA

PALATKA ACRES  
A SUBDIVISION OF PART OF THE W1/2 SW1/4  
OF SEC 34 T19N R3E E11S  
YAVAPAI COUNTY, ARIZONA  
JAMES H. HOWARD & ASSOCIATES  
CONSULTING ENGINEERS  
LAND SURVEYORS  
1 OF 1

CAULLA



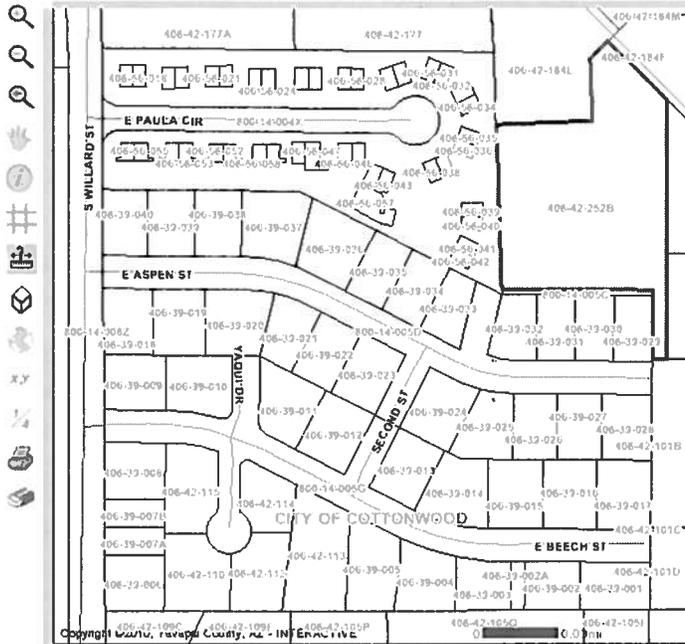
SCALE 1:1000

- Legend**
-  City Boundary
  -  Verde River
  -  Edge of Road
  -  Yavapai County Parcels





### Interactive Mapping Application



Search By Property

Search By Location

[HELP](#) [TUTORIAL](#)

**Overview Map**

**Map Status**

**Map Scale**  
1: 2712

**Identify Layer**

**Parcels**

**Draw Default Layers**

**Display Map Legend**

**Refresh Map**

**Map Layers**

- ▶ Property Features
- ▶ Roads/Streets
- ▶ Land Features
- ▶ Districts/Precincts
- ▶ Zoning
- ▶ Map Themes
- ▶ Satellite/Aerial

**Refresh Map**

Map Data Last Updated: Wednesday, June 30, 2010 2:50:29 AM  
Feedback Welcome [Send Comments](#) to GIS Staff

**Try out new Interactive Mapping Application**

Parcel ID: 406-42-252B    Check Digit: 6    [Print This Information](#)    [View Comparables](#)  
[Zoom to this parcel](#)    [Buffer this parcel](#)

**Owner Information**

**Owner(Primary)**  
CITY OF COTTONWOOD

**Owner(Secondary)**  
N/A

**Owners Mailing Address**

827 N MAIN ST

**Owner City**  
COTTONWOOD

**Owner State**  
AZ

**Owner Zip**  
86326

**Recorded Date**  
N/A

**Last Transfer Doc Docket**  
N/A

**Last Transfer Doc Page**  
N/A

**Parcel Information**

**Physical Property Address**  
.

**Incorporated Area**  
CITY OF COTTONWOOD

**DOR Acres**  
2.64

**Calculated Acres**  
2.5

**Subdivision**  
N/A

**Subdivision Type**  
N/A

**School District**  
MINGUS UHS #4

**Fire District**  
N/A

**Improvements(1)**

**Type**  
COMM'L MISC YARD IMPROVEMENTS

**Total Fl.Area**  
1

**Effective\Construction Yr**  
1990

**Assessment Value**

<b>2011 Full Cash Value</b>	<b>2010 Full Cash Value</b>
\$539,156	\$548,364
<b>2011 Limited Value</b>	<b>2010 Limited Value</b>
\$539,156	\$503,943
<b>2011 Assessment Ratio</b>	<b>2010 Assessment Ratio</b>
16	16
<b>2011 Legal Class</b>	<b>2010 Legal Class</b>
AG/Vacant Land/Non-Profit-Real Property & Improvements	AG/Vacant Land/Non-Profit-Real Property & Improvements
<b>2011 Net Assessed Full Cash Value</b>	<b>2010 Net Assessed Full Cash Value</b>
\$0	\$0
<b>2011 Net Assessed Limited Value</b>	<b>2010 Net Assessed Limited Value</b>
\$0	\$0

**Taxes**

<b>Tax Area Code</b> (See Pie Chart)	<a href="#">See Full Tax Bill Link</a>	<b>2009 Taxes Billed</b>
630		\$0

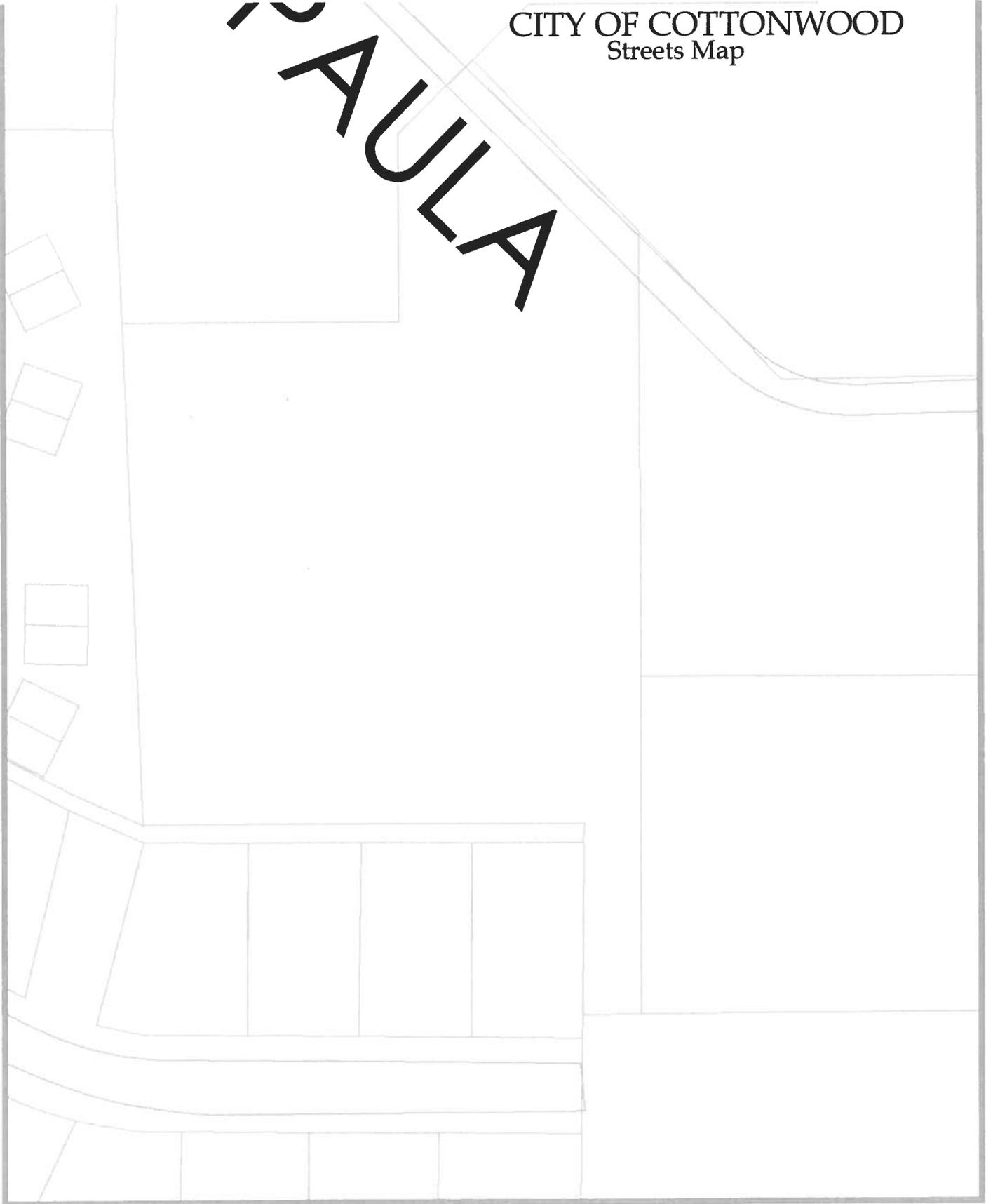
**Recent Sale Information**

No recent sales to report

NOTE: (The above parcel information is updated Department of Revenue data and was last updated on Wednesday, June 16, 2010 9:02:42 AM.)

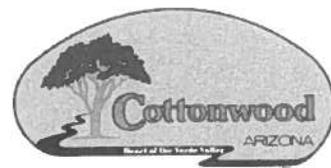
# CITY OF COTTONWOOD Streets Map

# PAULA



- Legend**
- City Boundary
  - Verde River
  - Edge of Road
  - Yavapai County Parcels

- HAZARD BUSING AREA
- 1 MILE WALKING RADIUS
- COTTONWOOD MIDDLE SCHOOL
- COTTONWOOD ELEMENTARY SCHOOL



City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: September 21, 2010  
Subject: **Public Hearing for Quail Canyon Annexation**  
Department: Community Development  
From: George Gehlert, Community Development Director

**REQUESTED ACTION**

No action necessary. This is a public hearing to take comment regarding the proposed annexation of the Quail Canyon Subdivision, Units I and II.

**BACKGROUND**

On August 17<sup>th</sup>, the City Council directed staff to move forward with the annexation of the Quail Canyon subdivisions. The property is located along the south side of Quail Springs Ranch Road (formerly Godard Road) just west of its intersection with Old 279. The property includes about 105 acres divided into 59 residential lots and private roadways developed over the last four years. Although improvements have been installed, most of the lots are vacant.

Annexation is a petition driven process in the State of Arizona, as set out under ARS § 9-471, which requires that signatures in support of the annexation, representing 51% of the owners and at least 51% of the assessed property valuation within a defined "territory of annexation," be obtained by the City before annexation can occur. Staff surveyed property owners within this area and received an indication that most would be willing to sign petitions in favor of annexation.

On September 1, Staff filed the required documents with the County Recorder's Office (affidavit, blank signature petition, map and legal description), initiating a 30-day waiting period which must expire before signatures may be obtained. Statutes also

require that the City Council must hold a formal public hearing within the last 10 days of the 30-day period.

Notifications regarding the proposed annexation and public hearing have been advertised and distributed, as required. When the 30-day period ends, Staff will obtain the necessary signatures and file them with the Recorder's office. The Council must then adopt the annexation ordinance and comparable City zoning. The ordinance must also be published and related advisories distributed to specific agencies.

### JUSTIFICATION/BENEFITS/ISSUES

- **Added Service Area Responsibilities:** There will be costs associated with providing City services to this area, principally for maintenance of roads and drainage areas; water service, police and fire protection. The City is also required to commit to a 10-year plan of infrastructure and serviceability to these properties.
- **Added Revenues:** As the lots are developed and occupied, the additional housing units and population will generate water revenues as well as entitle the City to added State-Shared revenues.

### COST/FUNDING SOURCE

There is minimal cost associated with the annexation process. Costs associated with maintenance issues should be addressed by the 10-year service plan.

### REVIEWED BY:

City Manager: \_\_\_\_\_



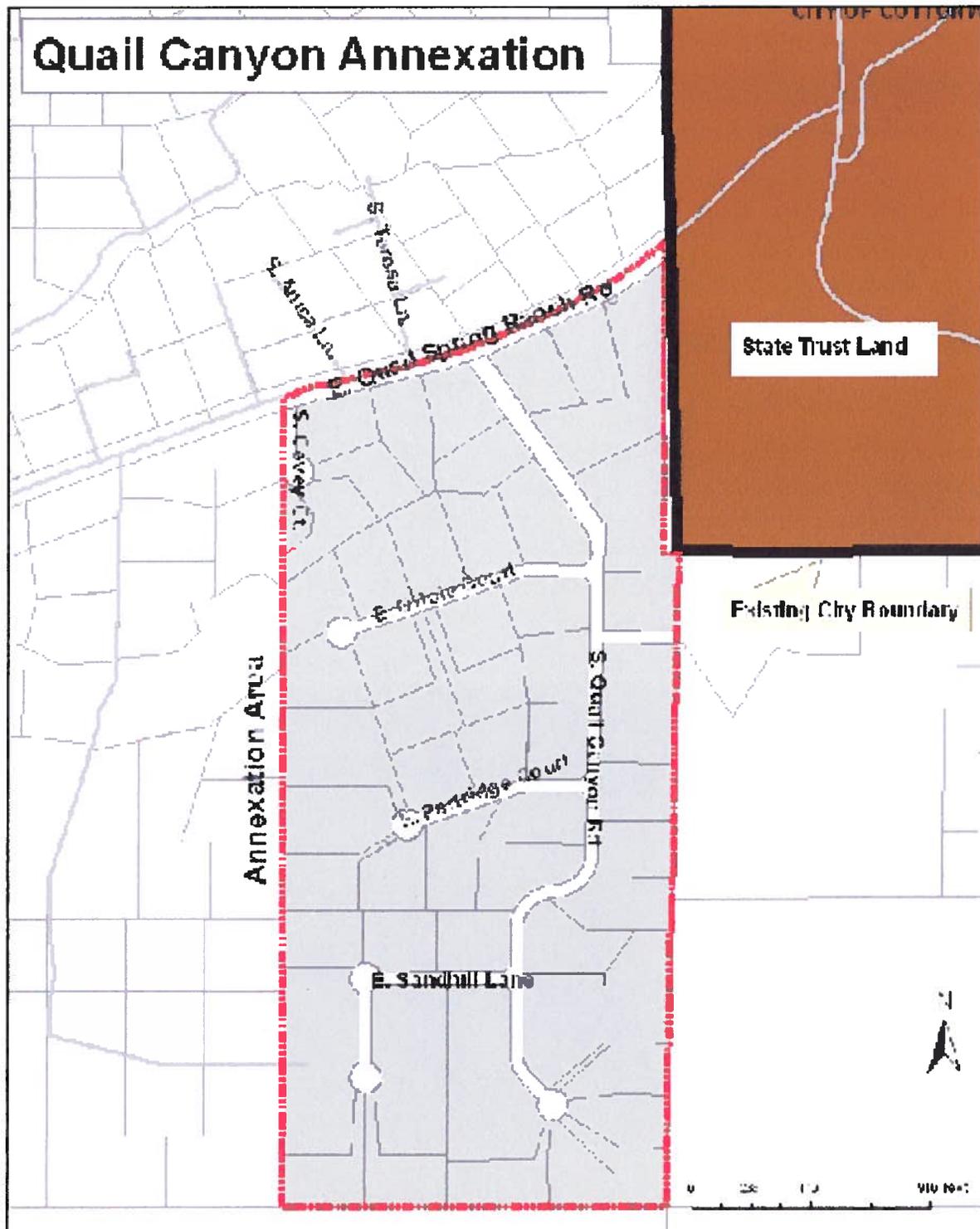
City Attorney: \_\_\_\_\_



### ATTACHMENTS

- Map of Annexation Territory and Legal Description
- Map of Ownership

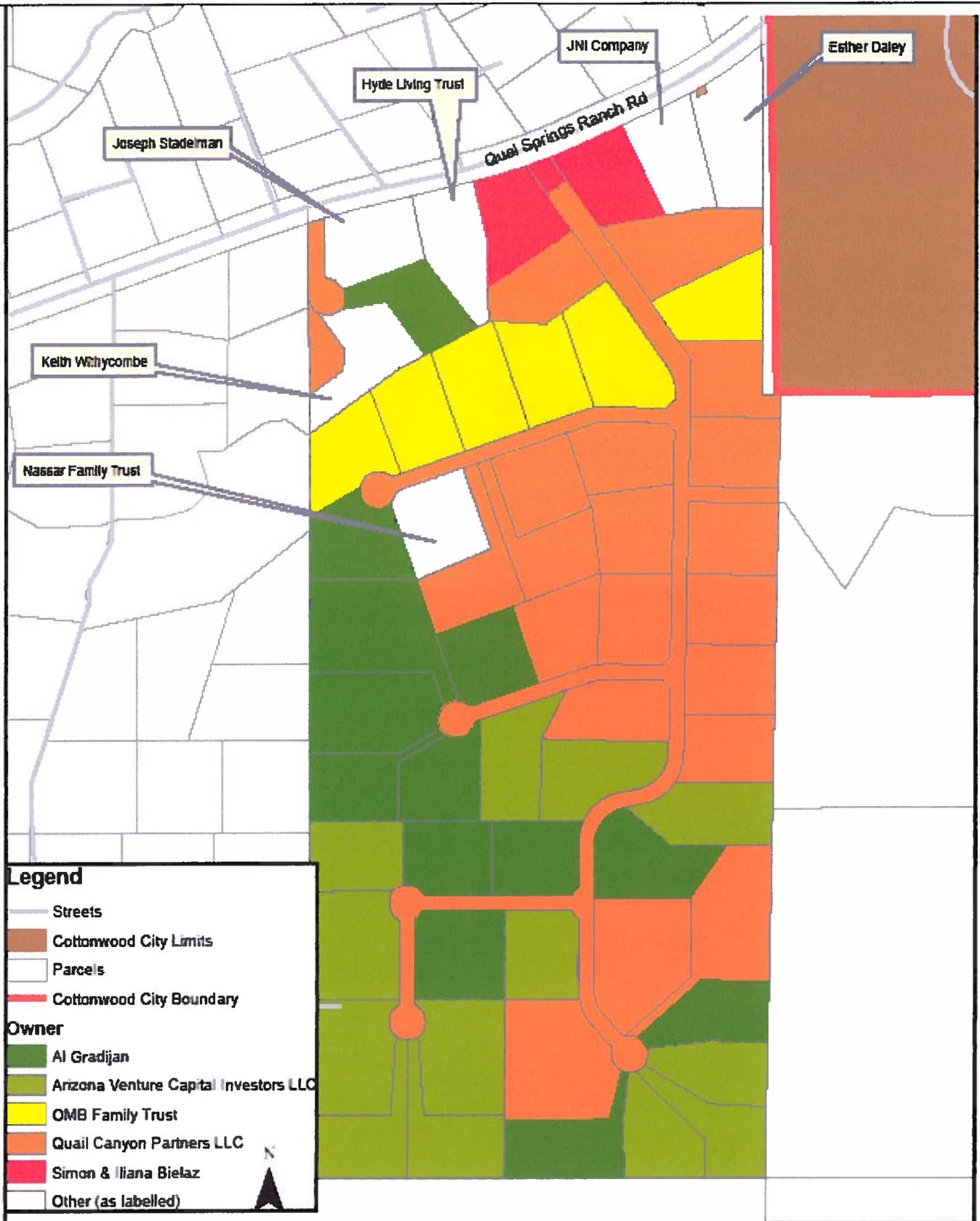
# Exhibit A: Map of the Annexation Territory



## Exhibit B: Legal Description

A portion of Sections 15 and 22 of Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as Quail Canyon Subdivision, Units I and II.

# Quail Canyon Ownership



## GRADIJAN / QUAIL CANYON ANNEXATION

### ESTIMATED ADDITIONAL STATE SHARED REVENUES - Gradijan Annexation

Original revenue estimates from the League excluding the Gradijan Annexation	Population		
	2005 TPT/HURF	2005 URS	2008 Commerce
Cottonwood, AZ	10,860	10,860	11,230
Total AZ	4,865,696	4,869,189	5,260,965
Population Factor	0.22320%	0.22304%	0.21346%

Approximate FY 2010 State Estimates			
LTAf	HURF	Sales Tax	Income Tax
\$49,096	\$714,100	\$834,151	\$1,402,098
\$23,000,000	\$319,944,000	\$374,000,000	\$628,644,630
0.21346%	0.22320%	0.22304%	0.22304%

\$2,999,445

Additional Revenues with the Gradijan Annexation	Population		
	2005 TPT/HURF	2005 URS	2008 Commerce
Cottonwood, AZ	11,005	11,005	11,375
Total AZ	4,865,841	4,869,334	5,261,110
Population Factor	0.22617%	0.22601%	0.21621%

Approximate FY 2010 State Estimates			
LTAf	HURF	Sales Tax	Income Tax
\$49,728	\$723,613	\$845,263	\$1,420,776
\$23,000,000	\$319,944,000	\$374,000,000	\$628,644,630
0.21621%	0.22617%	0.22601%	0.22601%

\$3,039,380

#### Additional State Shared Revenues

\$633	\$9,513	\$11,112	\$18,678	\$39,936
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Average Household Income	\$150,000
Estimated Households	58
Average members per Household	2.5
Estimated Area population	145

Avg. home price (3,000 sq ft w/400 sq ft garage)      \$500,000  
 # of lots remaining      62

Building Fees Charged by the City	Per Home	Extended
Building permit	\$1,777.75	\$110,220.50
Plan check fee	\$1,155.54	\$71,643.48
Sprinkler permit fee	\$272.86	\$16,917.32
Water impact fee - 5/8" line	\$3,393.00	\$210,366.00
Sewer impact fee (no sewer available)	\$0.00	\$0.00
Water meter/connection fees	\$1,500.00	\$93,000.00
<b>Total Fees</b>	<b>\$8,099.15</b>	<b>\$502,147.30</b>

One - Time Revenues

#### Additional Service Costs

Police		Fire	
Staffing		Staffing	
Operational		Operational	
Capital		Capital	
<b>Total</b>	<b>0</b>	<b>Total</b>	<b>0</b>

Construction Sales Tax Collection		
Construction sales tax - GF	3%	\$604,500.00
Construction sales tax - HURF	1%	\$201,500.00
<b>Total Construction Sales Tax</b>	<b>4%</b>	<b>\$806,000.00</b>

State Shared Revenues	
LTAf	\$632.54
HURF	\$9,512.92
Sales tax	\$11,112.21
Income tax	\$18,678.15
<b>Total State Shared Revenues</b>	<b>\$39,935.82</b>

On-Going Revenues

Local Taxable Spending 1	Percent	Annual Spend	Per Household	Extended
Food	11.20%	\$16,800.00	\$504.00	\$29,232.00
Transportation	15.50%	23,250.00	697.50	40,455.00
Clothing	5.90%	8,850.00	265.50	15,399.00
Entertainment	5.50%	8,250.00	247.50	14,355.00
<b>Local Sales Tax Revenue</b>	<b>38.10%</b>	<b>\$57,150.00</b>	<b>\$1,714.50</b>	<b>\$99,441.00</b>

City of Cottonwood, Arizona  
City Council Agenda Communication



Meeting Date: September 21, 2010

Subject: **Resolution Number 2539 - Gardner Property Purchase and Sale Agreement**

Department: Administration; Development Services; Legal

From: Doug Bartosh, City Manager; Dan Lueder, Development Services General Manager; Steve Horton, City Attorney

**REQUESTED ACTION**

Consideration and approval of Resolution Number 2539, authorizing the purchase of the Gardner's Recycling property in Old Town.

**If the Council desires to approve this item the suggested motion is:**

"I move to approve Resolution Number 2539, authorizing the purchase of the Gardner's Recycling property in Old Town once a final agreement is negotiated by City staff and executed by the Mayor, and provided that all of the contingencies set forth in the agreement are satisfied prior to closing."

**BACKGROUND/JUSTIFICATION/BENEFIT/ISSUES**

As the Council is aware, City staff have been negotiating for the purchase of the Gardner's Recycling property in Old Town for more than a year. Staff believes that the acquisition and clean-up of this property, and its conversion to a use that is more in keeping with the Council's vision and plan for Old Town than its current use as a commercial/industrial recycling yard will significantly benefit both the Old Town area and the City as a whole.

Over the past year, staff has conducted a considerable amount of due diligence on the property, and believes that the environmental contamination on the site (primarily in the form of shallow soil staining) is sufficiently limited so as not to constitute a barrier to the proposed acquisition. In fact, once the site is acquired, City staff will work with the Arizona Department of Environmental Quality's Brownfield Program to seek funds that were available as of last year (and which ADEQ staff have encouraged the City to apply for) to perform a

comprehensive environmental assessment and possibly aid in the remediation of the site (in the event that certain substances or conditions are discovered on the site through that assessment); although the Council should be prepared for the likelihood of having to expend approximately \$50,000.00 in City funds over and above the purchase price of \$300,000.00 to perform remediation work that has already been identified by environmental consultants Western Technologies in their Phase II Environmental Assessment which they performed for the City in the summer of 2009.

Most recently, an issue has arisen with respect to the availability of recorded, legal access between the public right-of-way on Main Street and the Gardner parcels, as the County Assessor's map shows a narrow strip of private land lying between the two, as well as over Yavapai Street, which runs east to west and bisects Gardner's 3 northern and 2 southern parcels. This issue has been partially resolved through Mr. Gardner's pending acquisition of an ingress/egress easement from Ed Green (who is shown on the Assessor's map as owning that narrow strip of land, although title searches by both the title company and City staff suggest that this representation might be in error), which easement will be transferred to the City as part of the sale.

Importantly, Lawyer's Title has, despite the uncertainty, committed to providing title insurance that guarantees the City at least some legal access between Gardner's property and the public right-of-way on Main Street; although the City's and the public's legal right to use Yavapai Street may need to be addressed through additional research, negotiation, and/or legal action.

At this point, however, Staff believe that they have done as much as can reasonably be done to facilitate the acquisition of this property on terms that are fair and reasonable to the City, and that the acquisition, clean-up, and conversion of the Gardner property to a use that is more in keeping with the Council's plan and vision for Old Town is very much in the best long-term interest of the City and its citizens, even when the above-described uncertainties and challenges are taken into account.

During the past year, Mr. Gardner has had to request numerous extensions from the owner of another parcel of land located outside the City that he intends to purchase to continue to operate his recycling business. At this point, however, Mr. Gardner has indicated through his attorney that the sellers of that property are running out of patience, and so staff is asking Council to approve both the Resolution and the purchase agreement at this time, subject to finalizing the agreement, bearing in mind that the parties have reached agreement on all of the major deal points, and that those deal points have been fully disclosed to Council and are also set forth in the attached draft.

### **COST/FUNDING SOURCE**

Capital Reserves

**REVIEWED BY**

City Manager: \_\_\_\_\_

City Attorney: ✓SH

**ATTACHMENTS**

Resolution 2539

RESOLUTION NUMBER 2539

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN AS YAVAPAI COUNTY ASSESSOR'S PARCEL NUMBERS 406-36-021A, 406-36-021B, 406-34-010, AND 406-34-011.

WHEREAS, Yavapai County Assessor's Parcel Numbers 406-36-021A, 406-36-021B, 406-34-010, and 406-34-011 are located within the area of the City known as Old Town, which is an important historical, cultural, recreational and commercial area of the City; and

WHEREAS, the owner of the above-described parcels has expressed an interest in selling those parcels to the City; and

WHEREAS, the City Council has determined that it would be in the City's best interest to acquire the above-described parcels, so that they may be used in a manner that enhances the overall quality, value and attractiveness of the Old Town area; and

WHEREAS, the City has obtained an appraisal and performed other appropriate and substantial due diligence with respect to the property; and

WHEREAS, a preliminary title report and preliminary commitment for title insurance has been issued by Lawyer's Title Company of Cottonwood and a sales price of \$300,000.00 along with other material terms of a purchase agreement and contingencies for closing the transaction that are satisfactory to the City have been agreed upon with the Seller;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA:

THAT the City Manager and City Attorney are hereby authorized and directed to finalize negotiations for the purchase of Yavapai County Assessor's Parcel Numbers 406-36-021A, 406-36-021B, 406-34-010, and 406-34-011 for the purchase price of \$300,000.00, and upon the successful conclusion of those negotiations, to have the necessary documents prepared for execution by the Mayor; and that the Mayor is hereby authorized to sign all necessary documents to complete the purchase on behalf of the City in accordance with the final terms set forth therein.

RESOLUTION NUMBER 2539

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PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 21ST DAY OF SEPTEMBER 2010.

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Diane Joens, Mayor

APPROVED AS TO FORM:

ATTEST:

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Steven B. Horton, Esq.  
City Attorney

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Marianne Jiménez, City Clerk

