



**Comments/ Questions to be answered from Council's Neighborhood Listening  
Uptown Area (the "Y" North on SR 89A)  
Wayside Chapel**

**June 8, 2011**

Mayor Adams welcomed the group, explained the purpose and format of the meeting, and introduced the council and staff. The following Council members and staff were present at the listening:

Mayor Adams  
Councilor Ward  
Vice Mayor Hamilton  
Councilor McIlroy  
Councilor Rayner

City Manager Tim Ernster  
Assistant City Manager Alison Zelms  
Communications Manager Ginger Wolstencroft

Mayor Adams provided a brief update on the City's positive financial condition and the status of progress on the Council's priorities.

**Comments from the Meeting**

At a prior Council Meeting with ADOT, a Councilor asked ADOT whether the funds that exist for Continuous Roadway Lighting (CRL) could be used for another safety project, not lights, on the highway and the ADOT representative said yes. There are other safety measures that could take the place of lighting. It seems that ADOT should consider alternatives to the lighting proposal.

This City Council approved a resolution that said they would look at all options to prevent the installation of Continuous Roadway Lighting by ADOT, and they should.

If the City is looking for ways to expend the excess revenue it is receiving, consideration should be given to providing more parking in the Uptown area.

At the ADOT Board Meeting on May 20, 2011 the ADOT Board was trying to look for ways to move projects out in the timeline or reduce funding, not add money for more

projects so it appears that it is unlikely ADOT would provide funds for new additional projects in Sedona right now.

Without the petition process for the referendum, no public vote would have taken place.

A comment card submitted that the person from California thinks Sedona is perfect, but their city has declined in quality, while Sedona has not. He hopes that the City of Sedona continues its high quality and as his city's role model. The commenter noted that as a visitor, he admires Sedona. He thought his city was great, but would like to help make it better by studying Sedona.

During the four years from 2007 to 2010, according to police accident reports reviewed by the speaker, only three pedestrian accidents occurred on West SR 89A in the proposed continuous roadway lighting area. One of those three occurred at night and two during the day. The issue of safety on 89A began as a result of pedestrian accidents. The pedestrian accident rate has improved. The speaker feels that the Federal money is being thrown at the lights to address a nighttime safety issue that doesn't exist.

A commenter provided that, in order to address traffic congestion entering Uptown from the Canyon, the City should consider turning the mid-block traffic light back on. This could make a difference for traffic flow with the cars having a greater opportunity for continuous traffic flow when the light is green. Also, consider limiting pedestrian movement at the crosswalk at Apple/89A.

In Sedona we sometimes have a myopic vision of our problems and it is nice to hear from someone from outside the City with a different interest. The speaker thanked the visitor who requested information about AEDs for their participation.

## Questions

**Q: The Let the People Vote (LTPV) group promoted their cause by means of petitions claiming that the people need to decide whether to go ahead with a route transfer or not. The volunteers who carried those petitions throughout the community pushed the point that the people, not the City Council, needed to be the decision maker. Now, members of the LTPV group have stated publicly, and more than once, that their intention was simply to stop the route transfer, and to ensure that continuous roadway lights would be installed. They have stated that it is not important if the vote on the route transfer has actual meaning in terms of the decision, that it is just fine if all it does is to have the people express their opinions on this subject. What is the City or the City Council doing to address this travesty and to return true Democratic Power to the people of Sedona? What can the City do to make the vote meaningful?**

A: The soonest that any vote can take place is November 8, 2011 election. The Council has not yet set a date on any vote, although it is tentatively agendized for June 28, 2011 to set the date in time to meet Yavapai County's deadline of July 11, 2011 to finalize the ballot for November 8, 2011.

On May 20, 2011 Councilor Ward addressed the ADOT Board at its regularly scheduled board meeting in Flagstaff requesting that ADOT work with the City to make the referendum vote meaningful by preserving the option for a route transfer and delaying the installation of roadway lighting on SR 89A until after the referendum takes place.

The ADOT Board discussed the item on its June 17, 2011 Board meeting. At this meeting the ADOT Board voted unanimously to move forward with installation of continuous roadway lighting.

If the ADOT Board moves forward with the installation of lighting on SR 89A, and the deadline for entering into the Route Transfer passes, the City cannot prevent an election moving forward, but this might impact the date that the election would move forward.

**Q: When will the Initiative be voted on? Will it be voted on at the same time that the Referendum is voted on?**

A: The City Clerk has determined that a sufficient number of signatures were filed to require the Initiative to be placed on the ballot. The City Council will consider calling an election for November 8, 2011 for both the initiative and referendum at its regular meeting on June 28, 2011.

**Q: What is the difference between the Initiative and the Referendum? Are they separate items?**

A: The Initiative and Referendum are two separate items.

If approved, the language filed for the initiative would require an official election for approval and acceptance of any offer by the State of Arizona to transfer a state route within the city limits to the City.

If approved, the language filed for the referendum would stay the Council's action that approved a route transfer agreement for referenced portions of SR 89A.

Below is a brief summary of the Initiative and Referendum legislative processes that are available to electors in a city or town. Both are initiated by the electorate, and not by the City.

**INITIATIVE:**

The electors of a city or town may initiate a local law or ordinance by securing the signatures of fifteen percent of the qualified electors of the city or town on a petition. Once an initiative petition has been filed with the clerk of the governing body, one of the following actions may occur:

1. The governing body may enact the initiative petition as an ordinance and refer the ordinance to a referendum vote.
2. The governing body may enact the initiative petition without referring it to a referendum vote. In that case, the ordinance is subject to a referendum petition.

3. The council may decline to enact the initiative petition. In that event, the council may call a special election. If a special election is not allowed or called, the clerk is required to place the initiative measure on the ballot at the next city/town election. The deadline for submission of petitions is 120 days prior to election.

#### REFERENDUM:

Before an ordinance or other "legislation" enacted by a city council becomes effective, there is a thirty-day period after its passage in which a referendum petition may qualify against the ordinance. During that 30-day period a person or group intending to file a referendum against a legislative act may apply for a petition, and the clerk must supply the person with a correct copy of the legislative action taken by the council. It takes at least 10 percent of the municipal electors to propose a referendum on legislation enacted by the council. The number of qualified electors required to sign a petition is computed from the whole number of votes cast at the last city or town election where a mayor or council member was chosen. **The City Council may not voluntarily submit a measure to the people in the absence of a referendum petition except where specifically allowed by statute.**

Not every act of a city council qualifies as "legislation" subject to a Referendum. In order to qualify as "legislation" subject to Referendum, a municipal action must be a "definite, specific act or resolution. Measures that do not "enact anything" do not qualify. *Saggio v. Connelly, 147 Ariz. 240 (1985)*. Matters that have failed the "legislation" test include matters that constitute merely "conceptual approval" and "do not demonstrate a sense of absolute commitment to or final approval of" a particular action. This rejection of non-legislative acts is based upon the fact that such conceptual approval "did not establish policy, enact a law or permanent rule of government, or declare a public purpose and provide ways and means of its accomplishment." *Wennerstrom v. City of Mesa, 169 Ariz. 485 (1991)*.

#### **Q: What is the status on the Constructed Wetlands at the WWTP?**

A: Council authorized a consultant contract with Carollo Engineers at its 2/24/09 meeting to investigate the feasibility of an injection well at the Wastewater Reclamation Plant (WWRP) and several concepts such as wetlands. The Council, at its 6/23/10 meeting authorized staff to move ahead with wetlands and initial injection well testing. The Council approved a contract on 9/28/10 with Carollo Engineers for design of Phase I Wetlands and some exploratory work towards installation of a test injection well. The City Manager has established a Citizen Committee to work with the wetlands aspect of the project. Councilor Hamilton, Anita MacFarlane, Lee Luedeker, Gerhard Mayer and Dena Greenwood have been selected for the Committee known as Citizen Expert Advisory Committee (CEAG). The Community Development and Parks and Recreation departments have expressed interest in adding recreational/educational components to the Phase 1 Wetlands. On 2/9/11 Carollo and the City met with ADEQ regarding permitting requirements for the wetlands. Based on the outcome of that meeting, staff recommended that construction of Phase I Wetlands be delayed until a permit is obtained and that design of the UV upgrades begin. Council approved this change at the 4/12/11 Council meeting, as amendment one to the contract approved 9/28/10. Staff has completed review of the 30% plans for wetlands. The cost estimate from Brewer Brothers greatly exceeds the available budget and Carollo is revising plans. Carollo has

begun design of the UV upgrade facilities. Staff has resubmitted a grant request to Yavapai County for funding towards non-wastewater components of the project that are aimed at enhancing utilization by the public of the wetlands. A meeting of the CEAG, Carollo Engineers and the City to discuss project staff, including possible phasing of Wetlands development, will be held on 6/23/11.

**Q: Why did the City's population decline from the 2000 Census and the 2010 Census?**

A: The Census population for Sedona in the 2000 Census was 10,192 and in the 2010 Census is 10,031. The State updates population figures for the purpose of distributing state shared revenue every fifth year, and in 2005 Sedona's projected population was adjusted upward to 10,935. The reduction that is regularly quoted is the reduction from the mid-census update and represents approximately an 8% reduction in the population figures used to distribute state shared revenue.

There is not a definitive reason for the population decline from the 2000 and 2005 population figures to the 2010 Census. However, there are several factors that are likely to have impacted the decline in population. The spotlight on immigration issues in Arizona, culminating with the approval of SB 1070 may have negatively impacted the response rate from the Hispanic community and may have also resulted in some members of the Hispanic community moving away from Sedona. Detailed demographics of changes in the racial makeup of Sedona have not yet been released.

In addition, inflated mid-census population figures were a factor in the decline in population relative to State Shared revenue. Also, there may be a correlation to the weakened economy and fewer available jobs.

The housing vacancy rates have been released, and show that the vacancy rate for Sedona in 2000 was approximately 13% and in the 2010 census shows this vacancy rate at almost 22%. That is a significant increase in housing vacancies in Sedona and is also a likely factor in the reduced population.

**Q: The City tried a one-time traffic mitigation plan to address back-ups in Uptown, there were some problems with signage and the configuration, but it was a good idea – are there plans to try a mitigation technique again?**

A: There are plans to do another test for traffic mitigation methods with some changes to the signage and the configuration. The Police Department and Public Works Department will be providing public information in advance of the next trial.

**Q: How can people present a petition under false pretenses? Is there something that the City can do about that?**

A: Laws governing referendum petitions contain very specific requirements for designating the purpose of the referendum and the specific legislation that is being challenged. The exact language of the legislative act being challenged must be attached to every petition that is circulated for signatures. The law presumes that persons signing the petition have taken the opportunity to read the language describing

the legislative act being challenged. A referendum petition can be challenged on the basis that the descriptive language attached to the petition is inaccurate or incomplete. There is no legal basis for challenging a petition based on oral representations of a particular individual concerning the motives behind a referendum. Debate surrounding a referendum issue often gives rise to varying opinions regarding the merits and motivations of people for or against the issue. Like every political debate, the primary remedy for inaccurate, misinformed or misleading statements comes from the opportunity for other voices to be heard challenging such statements.

**Q: In the Behavior Research study, one question was, if ADOT retains control and installs lights similar to 179, would you be ok with it? There has been an allegation that the researchers engaged with those they surveyed. There were other questions that were flawed. Why has the City not admitted that the survey was flawed? When is the Council or the City going to step up and say they should throw out the Behavior Research survey results?**

A: Staff provided Behavior Research Center Inc. (BRC), as much information as possible about the route transfer/lighting issue, explained the information to them, and reviewed the draft questions. The detailed questions were provided to Council at a meeting in December, and at that time and beyond, Council comments were passed on to BRC. BRC staff responded to all of the comments, either incorporating the comments into the survey by modifying the questions, or explaining to the City why the comments were not included because they would not change the outcome of the survey findings. Behavior Research Center, Inc. is an independent Phoenix-based firm providing marketing and management research and counsel to both public and private sector clients since 1965. The methodology utilized by BRC meets the standard for an accurate reading based on the survey within a +/- 5% margin of error.

Input and information from this statistically valid survey as well as multiple other venues including a straw poll on the City's website, listening sessions and service organization presentations was available to the Council. All of those surveys supported by an approximate two to one margin that the City should not finalize a route transfer. In addition, Council received multiple briefings from City Staff, CivTech Engineering, and ADOT throughout the nine-month negotiation and public outreach process.

**Q: What is the status of the injection wells and increased water quality at the WWTP? Why does the treated effluent require an A+ quality if it is being treated in wetlands? Can't the wetlands be used to treat the water to an A+ quality?**

A: The consultant, Carollo Engineers, is preparing to present to staff their finding based on further investigation of underground geology. Based upon preliminary discussion prior to this presentation, which is to occur at a meeting on June 23, staff has been told that one location on the plant site looks feasible. The water from the wetlands is not proposed for injection into the ground. Water injected into the ground must be A+ according to regulatory requirements (approximately drinking water standards as relates to coliform and some other standards). Water passing through the wetlands could not be assured of consistently meeting this standard because of its exposure to animals and the air.

**Q: The speaker understood that the City Council started the dialogue of 89A safety by requesting improvements for nighttime safety. Could the Council at some point make the same request to also ask that ADOT provide daytime safety solutions?**

A: Since the Route Transfer Agreement was stayed due to the referendum, no formal discussions have taken place with ADOT regarding daytime safety solutions. However, the City staff has had informal discussions with the Arizona Department of Transportation about partnering with the City on daytime safety improvements in addition to the continuous roadway lighting. ADOT has informally responded that they are willing to discuss daytime safety improvements in addition to the continuous roadway lighting and may be willing to possibly share the cost of additional safety improvements.

**Q: In Old Town Cottonwood there are crosswalks and there is a state statute that is referenced regarding yielding to pedestrians. Why can't Sedona just do that in West Sedona on SR 89A?**

A: The roadway referenced in Cottonwood is a City owned roadway. It also is a two-lane roadway that no longer serves as a major connecting route in the highway system.

**Q: A speaker from out of town wondered how the City installed the Automated External Defibrillators (AEDs) in the tourist area of Sedona, and how his City might be able to do that? How expensive would a similar project be and how, based on the reason that Sedona decided to provide AEDs can he convince his City to do the same?**

A: The City is a separate entity from the Sedona Fire District (SFD). The City was approached by the Fire District with a request to install AEDs in Uptown, a prominent tourist area within the City. In order to facilitate this process, with District equipment installed on City property, the City and SFD entered into an Intergovernmental Agreement, assuring the District access to City ROW and property to install the District purchased and maintained AED's. The units are part of the Sedona Fire District's Public Access Defibrillator (PAD) program.

Funded through tax dollars, the PAD program began in 2001. Sedona Maintenance Division workers check the 10 city units in the Uptown area daily to ensure they have not been removed from their boxes or tampered with, and SFD firefighters check weekly for operability. This includes running an internal computer check, making sure batteries work and replacing the defibrillator pads when necessary. In addition to doing unit maintenance, SFD also offers training on how to use the AEDs to anyone who lives or works in the area where units are located.

The PAD program, as of 2009 had installed 46 AEDs throughout the SFD district which includes the Village of Oak Creek and other areas outside of the Sedona city limits. Of the 46 units, 40 were purchased through a combination of SFD tax dollars and donations, as well as directly by the owners of area resorts. Later, Lee Birch donated six more units in memory of her husband Si Birch, a former Sedona City Council member.

The SFD, City, and local businesses partnered to locate the units in public facilities, including clubhouses, stores, churches, law enforcement vehicles, ball fields and the community pool.

**Q: What is the City doing to address the fact that continuous roadway lighting remedies a nighttime safety issue that doesn't exist?**

A: The City Council passed a resolution in May 2010 opposing continuous roadway lighting and requesting ADOT to explore other alternatives that would provide both daytime and nighttime pedestrian, bicycle and vehicular safety. The City has been doing everything it can to accomplish this within reason. The City Council subsequently approved a resolution in August 2010 that instructed staff to perform due diligence fact-finding and then enter into good faith negotiations with the Arizona Department of Transportation to reach a mutual understanding and agreement of all terms and conditions necessary to accomplish a transfer of ownership, jurisdiction and control of portions of State Route 89A to the City of Sedona as an alternative to ADOT's continuous roadway lighting project.

As part of their research into whether or not to accept a route transfer, the City Council commissioned a conceptual study to review the minimum alternative safety measures that could be installed with an equal or greater impact to safety than continuous roadway lighting. CivTech completed this study and provided a combination of recommended improvements to provide that minimum safety improvement. The minimum recommended countermeasures directly address the issue of random pedestrian and bicycle crossings of SR 89A and provide reasonable distances between motorist recognized pedestrian crossing locations.

Due to the referendum, the City cannot effectively take ownership of SR 89A and the State has not transferred funds to the City. The City continues to work with ADOT to propose solutions that would keep the Route Transfer Agreement viable until the public vote on the referendum can take place in November 2011. If the Route Transfer Agreement remains viable until after the referendum election, and the voters approve the referendum thereby overturning the city council's decision approving the Route Transfer Agreement, then the City's alternatives for taking ownership of the road will have been exhausted.