

**REGULAR MEETING OF THE COMMON COUNCIL
OF THE CITY OF EL MIRAGE
EL MIRAGE CITY COUNCIL CHAMBERS
10000 N. EL MIRAGE ROAD
6:00 PM - TUESDAY, APRIL 18, 2017**

Minutes

I. ROLL CALL

Present: Mayor Lana Mook, Vice Mayor Joe Ramirez, Councilmember Roy Delgado, Councilmember Bob Jones, Councilmember Jack Palladino, Councilmember Lynn Selby, Councilmember David Shapera

II. CALL TO ORDER

The meeting was called to order at 6:00 pm.

III. PROCLAMATIONS

P1. Proclamation to declare the month of May 2017 as Building Safety Month (Building & Life Safety)

Fire Chief Jim Wise reported the City of El Mirage is committed to recognizing that the City's growth and strength depends on the safety and economic value of the homes, buildings and infrastructure that serve its citizens, both in everyday life and in times of natural disaster. The confidence in the structural integrity of these buildings that make up the community is achieved through the devotion of vigilant guardians, building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers and others in the construction industry. They work year-round to ensure the safe construction of buildings. "Code Officials – Partners in Community Safety and Economic Growth" is the theme for Building Safety Month 2017. This encourages all Americans to raise awareness of the importance of building safety and resilient construction; fire prevention; disaster mitigation, and new technologies in the construction industry. Each year, in observance of Building Safety Month, Americans are asked to consider the commitment to improve building safety and economic investment at home and in the community, and to acknowledge the essential service provided to all by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

Mayor Mook proclaimed the month of May 2017 as Building Safety Month. Accordingly she encouraged citizens to join with their communities and participate with Building Safety departments in their respective activities.

P2. Proclamation to recognize April 24, 2017 as World Meningitis Day (Administration)

Public Relations Manager Amber Wakeman reported the issue of protection for children against harm from meningococcal disease, which can cause meningitis and kill or permanently disable an otherwise healthy child in just a single day, is paramount in the hopes of all people. April 24th of each year has been set aside by the Confederation of Meningitis Organizations (CoMo) to unite with 45 member organizations in 28 countries to celebrate World Meningitis Day to reflect upon and honor the many children, adolescents, and young adults who have lost their lives or have become permanently disabled due to Meningitis. The importance of the global community working together is valued to make meningitis a disease people know about, where all citizens work towards vaccine prevention, and in doing so, foster the best possible safeguards against the disease for infants, young children and young adults.

Mayor Mook proclaimed April 24, 2017 as World Meningitis Day and presented the Proclamation to Ms. Caroline Petrie, National Secretary and CFO of the Meningitis Foundation of America.

IV. CALL TO THE PUBLIC

Citizens desiring to speak on a matter that IS NOT on this agenda may do so at this time. Comments shall be limited to three (3) minutes per person and shall be addressed to the City Council as a whole. At the conclusion of the Call to the Public, individual City Council Members may (1) respond to criticism made by those who have spoken (2) direct staff to review or respond to the matter, and/or (3) direct that the matter be put on a future agenda.

No Public Comments were received.

V. CONSENT AGENDA

All items listed under the Consent Agenda will be voted on with one motion. If discussion is desired regarding any Consent Agenda Item, that item will be removed from the Consent Agenda and voted on separately.

1. Consideration and action approving the minutes of the Regular Council Meeting held Tuesday, April 4, 2017. (City Clerk)
2. Consideration and action to approve the destruction of municipal documents that have reached the end of their retention period as authorized under A.R.S. § 41-151.19. (City Clerk)
3. Consideration and action to approve the destruction of municipal documents that have reached the end of their retention period as authorized under A.R.S. §41-151.19. (Building & Life Safety)

4. Consideration and action to approve an Intergovernmental Agreement (IGA) with Arizona Department of Transportation (ADOT) to apply for and administer the Safe Routes to School Speed Display Signs Grant from 2017 MAG Closeout Funds, if awarded. (Police and Public Works).

Vice Mayor Ramirez moved to approve Items 1 thru 4 on the Consent Agenda as presented; seconded by Councilor Delgado. Motion carried unanimously (7/0).

VI. REGULAR AGENDA

- A. Public hearing, closure of public hearing, followed by consideration and action to approve a Conditional Use Permit for a Religious Assembly Use at 11737 W. Valentine Street, El Mirage Arizona 85335 submitted by Ministerios Nuevo Gozo Church. (Development & Community Services)

Mayor Mook opened the Public Hearing and welcomed comments from the public.

Development Services Coordinator Jose Macias gave a background regarding the Ministerios Neuvo Gozo Church. They have been operating for over ten years in the West Valley and have 80 active members. They have been renting space in Surprise for the last six years. The church meets on Sundays and Tuesdays. The parcel under consideration was purchased in 2012 with a goal to build a permanent building and increase membership. Mr. Macias then reviewed the elevations of the building and the site plan. The 40,435 sq. ft. site is located at 11737 W. Valentine Street and a 1,920 sq. ft. building is proposed. There is SN Suburban Neighborhood zoning. The surrounding property includes single family dwellings on the north, vacant land on the east and south and single family dwellings on the west. City Staff has no objections. The Planning and Zoning Commission held a public hearing on March 14, 2017 and with a 4-0 vote to recommend approval to the City Council.

David Franklin of Franklin Architects spoke briefly to Council regarding the simplicity of the building design.

Pastor Jose Farias spoke to the Council in Spanish thanking them for the opportunity to speak and to consider approving their request for a permit to build their church and to serve the community.

Councilor Jones reported he had visited the site and asked what the plans are for sidewalks and curbing. Mr. Franklin answered they are obligated to build their lot so there will be ample room for curb and gutter. He thinks there will be enough room for the congregation to get in and out. Councilor Jones asked if there were any comments from the residents on the north side. Mr. Franklin said the only two calls they received requested general information on what was the Ministerios Neuvo Gozo Church. Councilor Jones stated he believes this will be a nice addition to the area.

Mayor Mook closed the Public Hearing.

Vice Mayor Ramirez moved to approve a conditional Use Permit for a Religious Assembly Use at 11737 W. Valentine Street for Ministerios Nuevo Gozo Church; seconded by Councilor Palladino. Motion carried unanimously (7/0).

- B. Consideration and action to direct Staff to proceed with settlements, within budgetary constraints, to resolve the ongoing loss, risk and liability associated with operating the Dysart Ranchettes irrigation system.
(Administration)

Dr. Isom began the discussion by pointing out up front that two Council members, Vice Mayor Ramirez and Councilor Delgado, reside in the Dysart Ranchettes and asked City Attorney Bob Hall to address any perceived conflicts of interest that might exist. Attorney Hall reviewed the statute and stated the agenda item is not calling for any final solutions; this issue is more administrative at this point and not legislative, therefore, he does not believe there to be a conflict of interest at this time.

Dr. Isom then asked City Clerk Sharon Antes to give a brief history of the Dysart Ranchettes irrigation system (see history attached and made a part of these minutes).

Finance Director Robert Nilles then gave a PowerPoint presentation on the Dysart Ranchettes irrigation rates. A subset of Ranchette residents are irrigation customers who receive flood irrigation service provided through a dedicated well at a current rate of \$20.97 per hour, which is approximately \$0.41 per 1,000 gallons. Mr. Nilles reviewed a summary of costs including electricity, staff, recharge, and CIP to operate that service, comparing costs and flows over the past 6 years. By comparison, no other municipalities provide irrigation service the same way as El Mirage; i.e., pumping groundwater for flood irrigation. He also showed cost comparisons for other Valley cities with the City of Mesa having the closest match at \$52.95 per hour. No other city pumps groundwater for flood irrigation and rate plans vary by City but costs were provided for the City of Tempe, City of Buckeye and the City of Chandler.

Mr. Nilles reviewed the rate study provided by Willdan Financial Services that encompassed the costs for electricity, staff, recharge, and estimated capital costs of operation that showed the current charge of \$20.97/hour should be \$52.91/hour to cover the cost of current operations; Willdan has not yet completed the study for capital replacement costs that also includes ditches, which would need to be an additional charge to the \$59.02. A map of the 137 parcels covering 279 acres in the Ranchettes was displayed and he explained this was the number of parcels that existed when the City acquired the water system in 1989 at a cost of \$200K. Using a known document that showed an assessment for a specific parcel, calculations were made to obtain a per acre cost.

Mr. Nilles also reviewed estimates received from CareScape Landscaping on the amount of water that would be necessary if utilizing an alternate watering system such as bubblers, drip, or sprinklers. Rate comparison estimates were given with the current flood irrigation method versus using potable water rates using less water. He then explained a possible settlement plan to move from flood irrigation to an alternative system by separating Ranchette owners into three categories: 1) properties that are current users and have irrigated within the last two years, 2) properties who have access to irrigation but have not flood irrigated in the past two years, and 3) properties that do not have access to irrigation ditches. A proposed plan would consider settlements of a per acre cost to each Ranchette owner as reimbursement for the initial assessment plus a set amount for Category 2 owners to encourage use of alternative watering methods, and plus a larger set amount for Category 1 owners to replace like-for-like using potable water rather than flood irrigation.

Dr. Isom stated the irrigation rates are not covering the cost to operate the system and from research, it has been operating in that fashion for many years. This matter was presented to Council in 2006 and 2009, and in 2011 this Council made the hard decision to increase all water rates by 10%, whether for irrigation or potable water. He stated he is seeking direction from Council to negotiate and resolve some of the issues resulting from the system not paying for itself. The rest of the community is arguably paying the difference in their water rates to cover the cost of irrigation; while the irrigation rates have increased slightly over the years, the rate is not enough to cover the cost of production.

Dr. Isom further stated there is also a liability and risk issue for the City. Legal research has pointed out that subsidizing the cost could be considered illegal gifting which is compounded by charges to a neighboring community where water is provided. While an issue that has been broached in the past, he believes it has been put off largely because of political concerns; now the Dysart Ranchettes residents could face substantial rate increases for irrigation services. He believes this Council seeks to represent the best interest of both the Dysart Ranchettes residents and all residents of El Mirage and with this direction, it is his goal to come up with an alternative to the current method of irrigation and seek a solution that works for everyone; one that includes Dysart Ranchettes residents who irrigate now, those who have access but have not irrigated in the past two years, and all Ranchettes owners for the initial assessment. He explained that flood irrigation produces very large amounts of water that either evaporates or dissipates into the ground in a short period of time and since the water going into the ground cannot be measured, Arizona Department of Water Resources (ADWR) does not give water credits for which the City must pay a sufficient recharge fee. There are more efficient alternative ways to irrigate and that is what he hopes to explore with the residents. This proposal will involve the City seeking settlements; the City's legal obligation was to the water company from whom the system was purchased and not to individual residents. Dr. Isom stated he believes that from a policy standpoint, there is a need to find a common solution that will be a benefit for all involved. The approach that this staff seeks

is one that takes into consideration the history and concerns of the Ranchettes residents.

Following staff's presentation there was considerable discussion on this matter. Mayor Mook stated Council is not making a final decision tonight regarding what exactly is going to happen to this system, rather staff will be directed to look at all aspects of this matter to determine what can and cannot be done to resolve this long-standing issue. She stated Council intends to do the right thing to protect everyone's rights in the City.

Mayor Mook stated she had one comment card submitted and called on resident Lisa Tonk who stated she wished to withhold her comments at this time until further research has been completed.

Councilor Shapera asked Attorney Hall if this item should be continued or voted on, and Attorney Hall answered that since it is an item that directs staff to move forward with analyzing the situation and finding alternative solutions, if Council approves he believed it is appropriate to move forward.

Councilor Delgado stated he does not agree with Mr. Nilles' numbers presented because there is "free" water that flows in the ditches while it is being distributed to irrigators which happens every time there is irrigation and this has not been studied. He further stated that the electricity had not been studied and that no one in the Ranchettes was notified about this discussion which could possibly affect their property values.

Vice Mayor Ramirez asked Attorney Hall if he is absolutely sure there is no conflict of interest stating he understands this is a directive to staff to find a solution to this problem. Attorney Hall explained this is an action item to give staff direction to continue its' study within the budgetary constraints and neither Vice Mayor nor Councilor Delgado will directly benefit any more than any vote on other community projects. In this particular instance the action item is to direct staff to review the budget, find alternatives, evaluate the ongoing loss, determine liability in terms of the quality of the system, and who is paying for the system. Ultimately there could be a decision where Councilors may be offered a direct benefit, and that would be the time to consult with him or a personal attorney about a possible conflict of interest. Vice Mayor Ramirez stated he believes there is no reason for a continuation of this decision because a thorough study is needed and he wants to be sure all 32,000 residents are considered in this issue.

Dr. Isom explained this is a long-standing issue that needs to be addressed. He wants the citizens to know that his goal is to help resolve the issue because without clear direction and resolution, Council needs to understand that the liability could shift. Should the well go out during the summer, for example, there is a huge liability and potential unfunded financial expense that the Ranchettes owners would be coming to this Council to remedy immediately. There is no capital plan in place to handle such a catastrophic event and he is

seeking direction from the Council to move forward and work to finally resolve this issue.

Councilor Jones asked for an explanation on Councilor Delgado's earlier statement of 12 hours of "free" water. Councilor Delgado affirmed his earlier statement. Councilor Jones asked where the water is coming from and Councilor Delgado stated it is the water within the ditches that does not go to individual properties. Councilor Jones asked if it is still coming out of the same pump and Councilor Delgado answered yes, it is what the City is paying for rather than the individual owners. Councilor Jones asked if the water is coming out of the same well how could there not be a charge.

Mr. Nilles clarified by pointing out the water is not free. These costs presented include the priming of the water and are hard costs for every time the well is turned on. So the \$52.91/hour is for operation but does not include CIP costs for major replacement and repairs. The recharge amount is \$46,482 because that is the amount of water pumped out of the ground.

Councilor Shapera asked Attorney Hall if this action tonight would direct Staff to proceed with settlements and Attorney Hall responded there are no expenditures that would be appropriate without coming to Council first.

Mayor Mook asked if the water loss referenced as "free" water has been calculated from water that has been pumped from the well into the ditches where it goes into each person's own property and Mr. Nilles reported yes, that is where the \$52.91/hour rate comes from. He further stated the numbers are not his numbers; rather, the company who prepared the calculations for these numbers is Willdan Financial Services who previously was Red Oak, the same company who did calculations and the City's rate study in 2011. They are especially familiar with the City's structure and systems. Mayor Mook asked Councilor Delgado if he was satisfied with the explanation and Councilor Delgado responded he has not been given information on what else might be done but he is open minded. He wants to make sure every stone is turned over in the fact finding.

Dr. Isom summarized by stating that flood irrigation is not the most efficient method of irrigating and he is seeking a reasonable solution to a long-standing problem to mitigate the risk of liability and unplanned expenses. Should there be a failure in the system, the Ranchettes owners will not want to pay the costs of repairs and the operation costs should not be paid by all residents. This issue needs to be addressed before something catastrophic happens.

Mayor Mook stated that Council is looking at the entire matter to ensure that all owners are represented by doing the right thing for all residents.

Vice Mayor Ramirez moved to direct Staff to proceed with settlements, within budgetary constraints, to resolve the ongoing loss, risk and liability associated with operating the Dysart Ranchettes irrigation system; seconded by Councilor Jones. Motion carried unanimously (7/0).

VII. CITY MANAGER SUMMARY OF CURRENT EVENTS

The City Council may not act upon any matter in the City Manager's summary but may have general comment or questions. Items to be discussed will include, but not be limited to, the following:

Dr. Isom commented regarding the irrigation issue, he has pledged to do the right thing. He is proud of the community, staff and council.

1. Cinco de Mayo Fiesta – Friday, May 5, 2017

Intergov and Public Relations Manager Amber Wakeman reported the Cinco de Mayo Fiesta will be held on Friday, May 5th at Gentry Park from 6:00-10:00 PM with performances from Marysol Ortiz, Fiesta Mexicana, New Frequency Band, with free pony rides, a human foosball event, and Beer Garden.

Ms. Wakeman also announced the City will hold a Shred-A-Thon on Saturday, May 20th from 10:00 AM – 12 Noon at the City Hall Parking Lot. She thanked Public Works for coordinating this event.

2. Do Not Litter Campaign

Dr. Isom reported the campaign is going well. He walked his route Saturday and Sunday and the right-of-ways look better than they did when he first started. DO NOT LITTER signs are being installed on existing speed limit poles throughout the community. Nick Russo, Public Works Management Administrator, showed Council one of the signs and explained 125 signs will be posted along the arterial streets, collector streets going into subdivisions, City parks and facilities, and other high traffic areas throughout the community. Dr. Isom invited all Council members to come forward to hold one of the DO NOT LITTER signs for a photo.

3. Notification per City Code § 30.26 of Emergency Purchase

Dr. Isom explained that pursuant to El Mirage City Code § 30.26, he was hereby notifying Council of the recent need for an emergency purchase exceeding \$30,000 that was required to repair a damaged submersible pump motor at the Thompson Ranch (TR) well site. Thompson Ranch is one of three well sites that supply water to the Original Town Site of Surprise, along with Rockwood and Cottonwood well sites. Rockwood well site was already out of service due to planned preventative maintenance, leaving Cottonwood as the only well site available to produce water for the area. The TR well site repair was originally quoted at \$28,000 to repair, but when the pump was pulled the pump cable and column pipe also needed to be replaced at an additional cost of \$9,804.66. The immediate repair was necessary to bring TR well site back on line to ensure system pressure, water supply, and fire flow requirements be maintained.

4. Redflex Monitoring

Dr. Isom commended Detective Mike Vanorski for assisting the Chief with the monitoring of Redflex citations and presenting before the Court.

VIII. MAYOR’S COMMENTS and COUNCIL SUMMARY OF CURRENT EVENTS

The Mayor and City Council may not discuss or act upon any matter in the summary unless the specific matter is properly noticed for legal action.

Councilor Shapera asked if the ambulance service has moved into the old Fire Station and Mr. Nilles responded not yet but reported that the agreement with AMR is very close to conclusion.

Councilor Shapera also asked about the possibility of lowering the speed limit on Cactus Road from 45 mph to 35 mph. City Engineer Jorge Gastelum responded that an engineering study would be required to determine whether his request was possible and that such a study would cost approximately \$5,000. Councilor Shapera stated that at that cost perhaps his request could wait until a later time.

Councilor Delgado advised he attended the recent CDBG meeting and reported there is still no word regarding federal dollars so the A Street project is on hold.

Vice Mayor Ramirez asked Dr. Isom and Public Works if it would be possible to post signs regarding horseback riders on Peoria Avenue between Dysart and El Mirage Roads and Dr. Isom responded that additional signage in that area can be reviewed.

Councilor Jones stated he attended a recent APS Summit and learned there is a 4.5% electricity increase anticipated. This increase request will go before the Arizona Corporation Commission for a hearing on July 24, 2017. He stated he is very much against the rate increase and encouraged other residents to voice their objection.

IX. ADJOURNMENT - The meeting was adjourned at 7:26 pm.



Lana Mook, Mayor

ATTEST:



Sharon Antes, City Clerk

I hereby certify the aforementioned minutes are a true and accurate record of the El Mirage City Council Regular Meeting held on Tuesday, April 18, 2017 and a quorum was present.



Sharon Antes, City Clerk