

**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, JUNE 20, 2017**

**Minutes**

**I. ROLL CALL**

Present: Mayor Lana Mook, Councilmember Bob Jones, Councilmember Roy Delgado, Councilmember Lynn Selby, Councilmember Jack Palladino (via phone), Councilmember David Shapera

**II. CALL TO ORDER**

The meeting was called to order at 6:00 pm.  
Pledge of Allegiance  
Moment of Silence  
Silence Cell Phones & Pagers

**III. PRESENTATION**

PI. Presentation to Genesis Morales to recognize her heroic actions when she smelled smoke and alerted her family to evacuate the home saving herself and 14 family members (Fire).

Fire Chief Jim Wise introduced Battalion Chief Joe Fusco to recognize the outstanding and professional work by the El Mirage firefighters that want to recognize another amazing hero who saved her entire family. Battalion Chief Fusco reported on June 8<sup>th</sup>, 2017 at 1:15 am units from El Mirage, Sun City and Surprise Fire Departments responded to a house fire in the 14000 block of N. Fifth Avenue. They quickly controlled the fire with no injuries. The hero was Genesis Morales, a 10-year old girl, who alerted her grandfather when she woke up to the smoke. A total of 15 people escaped the fire without injury. This incident may have resulted in a possible loss of life if not for her quick-thinking action. He presented Genesis Morales with a Lifesaver Award for her heroic actions that helped her family survive a very dangerous situation. The City is fortunate to have Genesis as a resident of El Mirage. Mr. Fusco introduced Michael Brandon with the Firefighters' Charities who reported they were able to partner with Uptown Alley to provide Genesis with \$40 worth of games and \$40 worth of laser tag as a token of appreciation for her heroic actions.

Mayor Mook told Genesis she was a very brave girl and hopes she never has to do that again.

**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 Comment Cards 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 to approve the minutes of the Regular Council meeting held Tuesday, May 16, 2017. (City Clerk)
2. Consideration and action to approve the minutes of the Regular Council meeting held Tuesday, June 6, 2017. (City Clerk)
3. Consideration and action to authorize the Deputy City Manager/Finance Director to make budget adjustments for FY 2017-2018 accounts as detailed in the attached FY 2017-2018 Final Budget Reconciliation. (Finance)
4. Consideration and action to authorize the City Manager to enter into budgeted goods and services contracts to allow Public Works to perform their duties in FY 17-18. (Public Works)
5. Consideration and action to approve the renewal of the Cisco Smartnet maintenance agreement with CDWG in an amount not to exceed \$40,000 utilizing National IPA Contract. (Information Technology)

**Councilor Jones moved to approve Consent Agenda Items 1-5 as presented; seconded by Councilor Delgado. Motion carried unanimously (6/0).**

## VI. REGULAR AGENDA

- A. Public hearing, closure of public hearing, followed by consideration and action for a Conditional Use Permit approval for an Auto Services Use in an Urban Corridor zoning district at 11705 W. Thunderbird Road submitted by Johnson Automotive. (Development & Community Services)

Mayor Mook opened the Public Hearing.

GIS/Development Services Coordinator Jose Macias reported this site is located at 11705 W. Thunderbird Road, El Mirage. The lot is 9,888 sq. ft. with a 1,515 sq. ft. building. The zoning is UC Urban Corridor with a land use of auto services. Under the General Plan the area is classified "The Neighborhoods."

This lot is bounded on the north with a vacant lot on US 60, on the east with Industrial, on the south is vacant (UC) and the west is a retail building. Mr. Macias has received no public comments. He then reviewed the site plan and elevations of the building. Johnson Automotive is a family owned and operated business with 29 years of experience; they were previously in a different location in El Mirage since 2005. Business hours will be Monday through Saturday from 9:00 am to 6:30 pm. They have 3 full-time employees and they do not participate in over-the-counter sales. They service, on average, 3 to 15 cars per week.

The current use is out of compliance and a Conditional Use Permit is required in UC zoning. Staff review has no objections but recommended the following stipulations: 1) parking spaces must adhere to City Code Section 154.105; 2) the driveway must be paved with materials suitable to control dust and drainage; 3) a trash enclosure is required; 4) the existing metal water meter cover shall be replaced with a polymer type; 5) any proposed lighting must be so arranged as to reflect the light away from the adjacent residential properties; 6) two spaces per stall but no less than 4 and one for each employee (7 spaces) are required; 7) the side gate shall have screening material to screen the exterior storage areas from public view; 8) all vehicles parked overnight in front parking lot shall be screened from public view; 9) existing fire lanes shall be kept clear of any obstructions; and, 10) all employee and customer vehicles must remain on the shop property.

The Planning and Zoning Commission held a public hearing on May 9, 2017 where they recommended approval of the application as presented by staff with the stipulations and added the following stipulations: 1) Fire lanes shall stay clear; and 2) landscaping (shrubs) shall be planted along Thunderbird Road. The applicant is requesting 90 days to complete the work. Staff is seeking final action from Council for the conditional use permit to allow the auto repair service operation in an Urban Corridor (UC) zoning district.

Mayor Mook reiterated with Mr. Johnson that he has agreed with the stipulations and agrees to get them done in 90 days and he confirmed he will get them done within the 90 days.

Councilor Shapera asked if the area where the fire hydrant is located is City property and whether cars would be parked there to which Mr. Johnson responded there would be no cars there. Councilor Shapera also asked where the business sign will be located and Mr. Johnson answered it will be on the roof of the overhang.

Councilor Delgado asked if there would be lights on at night for security and was told by Mr. Johnson that there will be lights all around the building.

Councilor Jones asked if all vehicles would be inside at all times and Mr. Johnson confirmed yes, they will.

Councilor Selby asked if the City has provided acceptable types of landscaping, the method landscaping will be controlled and whether the plants would be placed

in the area by the fire hydrant; Mr. Macias stated that area is owned by the owner but there is an easement. He also stated they have provided plant guidelines, recommending desert-tolerant plants, though Mr. Johnson has been experiencing some disappearance of plants and the City is working with him to prevent plant loss.

No public comments were received and Mayor Mook closed the Public Hearing.

**Councilor Jones moved to approve a Conditional Use Permit for Auto Services Use in the Urban Corridor at 11705 W. Thunderbird Road with the additional stipulation providing for a 90-day completion; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

B. Public Hearing, closure of public hearing, followed by Council's consideration and action to recommend to the Arizona Department of Liquor Licenses & Control approval/ disapproval of an application for a AOC/license for Walgreens - 12244 W. Cactus Road. (Police)

Mayor Mook opened the Public Hearing.

Police Chief Terry McDonald presented this Acquisition of Control change for a Series 09 – Liquor Store. The owner/applicant has no criminal history that was determined to be relevant to this license. There have been no significant alcohol related calls for service at this business address. Within a ½ mile radius, there are four active liquor licenses and no existing churches or schools. The application lists Andrea Dahlman Lewkowitz as the applicant/owner for the liquor license. A comprehensive ACIC/NCIC records check conducted on Ms. Lewkowitz revealed no wants or warrants. Walgreens has a current City of El Mirage business license as of 6/7/2017. A records check of Walgreens with the Arizona Corporation Commission revealed the business is in “Good Standing” with no significant issues. The applicant's location is in compliance with A.R.S. §4-207(A)(B). Based on the investigation conducted and information obtained, the Police Department provides a “no recommendation” regarding the pending liquor license application.

No public comments were received and Mayor Mook closed the Public Hearing.

**Councilor Jones moved to recommend to the Arizona Department of Liquor Licenses & Control approval of an application for an AOC/license for Walgreens – 12244 W. Cactus Road; seconded by Councilor Delgado. Motion carried unanimously (6/0).**

C. Public Hearing, closure of public hearing, followed by Council's consideration and action to recommend to the Arizona Department of Liquor Licenses & Control approval/disapproval of an application for a AOC/license for Walgreens-15385 N. Dysart Road. (Police)

Mayor Mook opened the Public Hearing

Police Chief Terry McDonald reported this Acquisition of Control Change is for a Series 10 – Beer, Wine Store. The owner/applicant has no criminal history that was determined to be relevant to this license. No significant alcohol related calls for service at the business address. Within a ½ mile radius, there are no active liquor licenses, one existing church and two existing schools. The application lists Andrea Dahlman Lewkowitz as the applicant/owner for the liquor license. A comprehensive ACIC/NCIC records check conducted on Ms. Lewkowitz revealed no wants or warrants. Walgreens has a current City of El Mirage business license as of 6/7/2017. A records check of Walgreens with the Arizona Corporation Commission revealed the business is in “Good Standing” with no significant issues. The applicant’s location is in compliance with A.R.S. §4-207(A)(B). Based on the investigation conducted and information obtained, the Police Department provides a “no recommendation” regarding the pending liquor license application.

Mayor Mook asked Chief McDonald to address the number of schools stating there is a pre-school, Arizona Charter Academy and Surprise Elementary so that would make three schools rather than two as shown. Councilor Shapera also stated there is the LDS but there is also the new church approved at the “Fresh & Easy” site, therefore there should be two churches listed. City Attorney Hall stated he does not see a problem with recognizing the additional school and church for the record when considering approval to the Liquor Board.

No public comments were received and Mayor Mook closed the Public Hearing.

**Councilor Jones moved to recommend to the Arizona Department of Liquor Licenses & Control approval of an application for an AOC/license for Walgreens – 15385 N. Dysart Road; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

- D. Consideration and action to authorize the City Manager to enter into a contract (PW17-FS01) with Copper State Fire Protection for the installation of a fire suppression and alarm system at the wastewater treatment facility, in an amount not-to-exceed \$230,000. (Public Works)

Assistant Public Works Director Nick Russo reported Public Works experienced fire damage to Building A in 2015 and it was determined a fire alarm system was needed and was added to the FY16 Capital Plan. This installation will provide fire alarm monitoring for the entire WRF facility and fire suppression for critical equipment. Contract PW17-FS01 went out to bid in May 2017 and the bid opening was held June 8, 2017. If approved, work would be scheduled the first quarter of FY2017 with an approximate project length of 225 days. Copper State Fire Protection was the apparent low and responsive bidder. The total project cost, including contingency, would be \$230,000.

Councilor Shapera asked if the system would be monitored and Mr. Russo confirmed it is a monitored system and the fee for the monitoring would be an ongoing operational cost.

Councilor Delgado asked how many bids were received and Mr. Russo answered that one bidder submitted with eleven attending the pre-bid conference.

**Councilor Jones moved to enter into a contract with Copper State Fire Protection for the installation of a fire suppression and alarm system at the wastewater treatment facility; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

- E. Consideration and action to approve the purchase of two new marked police patrol vehicles and two new unmarked police vehicles, at a total cost not to exceed \$150,000 under State Contracts ADSPO17-166117 and ADSPO17-166118, that were approved in the FY 2017/18 budget. (Police)

Police Administration Deputy Director Michael Ashley presented the request to purchase four police vehicles that are budgeted in the 2017 Capital Improvements Plan. The Police Department has an 8-year plan for replacement of Police vehicles to ensure reliability and safety. Two of the marked vehicles will be 2017 Ford Interceptors and two unmarked vehicles will be Dodge RAM pickups. These vehicles will come ready with graphics and all the applicable warranties to make them fully functional. These contracts will be done under Arizona State Contract and will not exceed \$150,000.

Councilor Delgado asked if the vehicles would be fully equipped and Mr. Ashley advised they will be fully equipped.

Mayor Mook asked how many more vehicles will need to be replaced and Mr. Ashley stated four vehicles will come up for rotation and replacement next year.

**Councilor Jones moved to approve the purchase of two new marked police patrol vehicles and two new unmarked police vehicles at a total cost not to exceed \$150,000; seconded by Councilor Delgado. Motion carried unanimously (6/0).**

- F. Consideration and action to approve Ordinance O17-06-06 adopting the City's property tax levies for Fiscal Year 2017-2018. The Primary Property Tax Levy is \$1,654,937 and the Secondary Property Tax Levy is \$2,030,000. The total levies for FY2017-2018 are \$3,684,937. The total estimated tax rate is \$3.6337. (Finance)

Deputy City Manager/Finance Director Robert Nilles stated this item is the same levy as last year and statutes require a Roll Call Vote of the Council.

**Councilor Jones moved to approve Ordinance O17-06-06 adopting the City's property tax levies for Fiscal Year 2017-2018. The Primary Property Tax Levy is \$1,654,937 and the Secondary Property Tax Levy is \$2,030,000. The total Tax levies for FY 2017-18 are \$3,684,937. The total estimated tax rate is \$3.6337; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

**Yes votes cast: Councilor Shapera, Councilor Selby, Councilor Palladino, Councilor Jones, Councilor Delgado, Mayor Mook. Nay votes cast: none**

- G. Consideration and action to approve an Intergovernmental Agreement (IGA) with the Regional Public Transportation Authority (RPTA) for Regional ADA Paratransit Service for FY17-18. (Administration)

Intergovernmental and Public Relations Manager Amber Wakeman reported the City and RPTA have partnered to provide regional ADA Paratransit service for ADA eligible citizens. This contract will be limiting RPTA to regional medical and work related trips only and not providing local trips and will save the City approximately \$70,000 this year. Robert Nilles and Autumn Groom assisted with this agreement.

**Councilor Jones moved to approve an Intergovernmental Agreement with the Regional Public Transportation Authority (RPTA) for Regional ADA Paratransit Service for FY17-18; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

- H. Consideration and action to authorize the City Manager to negotiate and enter into an Agreement with Northwest Valley Connect (NVC) a nonprofit 501(c)3 for local Dial-A-Ride transit services for FY17-18 and waiving the competitive bid process. (Administration)

Intergovernmental and Public Relations Manager Amber Wakeman reported this agreement will provide local Dial-A-Ride services for El Mirage residents. Qualifications for riders will be a minimum of 65 years of age or have a physical disability to receive the Dial-A-Ride services. Northwest Valley Connect will use Urber, Lyft and Accessible Vans to provide this regional service. Securing the Northwest Valley Connect agreement will save the City approximately \$70,000. Cathy Chandler with Northwest Valley Connect and Robert Nilles assisted with this agreement.

Councilor Jones stated it is an exciting time to partner with this organization and foresees great things happening.

**Councilor Jones moved to authorize the City Manager to negotiate and enter into an Agreement with Northwest Valley Connect for local Dial-A-Ride transit services for FY17-18; seconded by Councilor Palladino. Motion carried unanimously (6/0).**

- I. Consideration and action to authorize a budget transfer for both Fiscal Year 2016/17 and 2017/18 to account for payment of retirement contribution reimbursements and court mandated interest payments to eligible Police and Fire employees. (Finance)

Deputy City Manager/Finance Director Robert Nilles reported the Public Safety Personnel Retirement System (PSPRS), which provides El Mirage and other

Arizona Law Enforcement and Fire Fighter's retirement benefits has identified "all PSPRS members who are entitled to excess contribution refunds and their individual amounts as a result of the Hall and Parker litigation." The Hall and Parker litigation is the result of a lawsuit filed by members of PSPRS who objected to the State Legislature increasing member contribution rates while in effect lowering employer contribution rates. The Courts ruled in favor of the members and ordered that their increased contributions be returned to them. PSPRS has determined that since they are a retirement system they are ineligible to directly repay members and employers must take on the task of returning excess contributions to the members. PSPRS has calculated the amount of the contributions to be returned although the interest amounts have not been ruled upon and determined as of the date of the communication just received. Not having the interest amounts determined does not preclude returning the excess contributions as soon as practicable. The City's intent is to add these contributions to the July 20, 2017 payroll and related Accounts Payable check run for members who are no longer City employees. Two significant reasons for the timely payment are employees have been requesting return of contributions as quickly as possible and timely payment will stop the interest owed from accumulating.

In total, 45 current and former employees are owed \$573,560.13 not including interest for excess contributions. As soon as the courts determine the interest rate (either 4.25% or 5%) on the contributions, interest owed to each contributor will be calculated. The individual amount of contributions to be returned ranges from a low of \$503.92 to a high of \$18,216.35.

Authorizing payment from available funds will prevent the retirement systems from being further underfunded and keep the City on the timeline to fully fund the retirement systems. There will be no fiscal impact for the budget transfers. The cost of the contribution return is \$573,560.13. The interest amount is unknown but estimated to be between \$60,000 and \$125,000. Mr. Nilles recommended payment rather than borrowing.

Councilor Shapera commended Mr. Nilles for a clear explanation.

Councilor Delgado asked if this \$574,000 would cover one year and Mr. Nilles stated the \$574,000 will cover the total amount owed to Police and Fire for the wages, excluding interest. The interest component is yet to be finalized but could be as much as \$125,000, so both are being addressed with the budget transfer request tonight.

**Councilor Jones moved to authorize a budget transfer for Fiscal Year 2016/17 and 2017/18 to account for payment of retirement contribution reimbursements and court mandated interest payments to eligible Police and Fire employees; seconded by Councilor Delgado. Motion carried unanimously (6/0).**



**J. Consideration and action to approve Ordinance O17-06-07 amending Chapter 30, Section § 30.07 MEET AND CONFER. (A)(5), (C)(1) and (C)(3).**

Mayor Mook called on Police Officer Norm Brice, who filled out a yellow comment card, to present. Officer Brice came to show support for passage of this ordinance reinstating wages and benefits into the City Code for Meet and Confer. He stated this is the second step to improve relationships between Police Officers and the City; training improvements were the first step and Meet and Confer is a framework to bring issues to the City regarding certain issues. In 2016 he recommended the City and the Association use “Interest Problem Solving” to identify common interests and problems and come up with common solutions. He recommends “Agreement Dynamics” run by Rhonda Hilliard.

Dr Isom stated this item was passed in September of 2016 with a 4/3 vote. He requested Council to reconsider given the changes that have occurred and believes it is in the best interest to all involved that wages and benefits are returned to the Meet and Confer ordinance. He stated he is hopeful the employee groups, administration and Council continue to make an effort to work cooperatively. Two points are paramount when considering Meet and Confer which are the fiscal stability of the organization as well as the good reputation of the City. He commented that two colleagues have recently commended this community on the positive change in its reputation over the last 6 years and noted it is absolutely necessary to embrace the good efforts and the good name that has been established thus far.

**Councilor Selby moved to approve Ordinance O17-06-07 amending Chapter 30, Section § 30.07 MEET AND CONFER. (A)(5), (C)(1) and (C)(3) with the additional stipulation this code cannot be changed or altered without a super majority of the members of the Council’s approval; seconded by Councilor Shapera.**

Mayor Mook stated she will not support a super majority because it is not necessary to have a super majority on something that very clearly decides how much money will be spent on the most expensive part of the budget.

Councilor Shapera stated the intent is to prevent what happened in the past and it has nothing to do with the financials, other than in order to change this particular section of the ordinance a super majority would be needed.

Mayor Mook stated she does not think it is proper to make a ruling that will handcuff future Council votes.

Councilor Shapera stated he believes this is a difference of opinion.

Councilor Selby stated he believes the reason for a super majority is to have more people involved to get a stronger opinion on this type of vote and it has nothing to do with finances.

Mayor Mook said it has everything to do with how much money any future Council decisions are going to be for associations or employees' wages and/or benefits; that is one of the most critical parts of any Council's decision-making authority.

Councilor Jones reported he has worked closely with the Police Association for the past couple of months and the Meet and Confer was an important item. The ordinance itself is only referring to the Meet and Confer process and has nothing to do with the wages; that will take care of itself in the Meet and Confer. He does support the super majority which is important to employees in the Police Department and he will approve of the super majority for the Meet and Confer only.

Councilor Shapera asked City Attorney Robert Hall to address the issue of super majority. Mr. Hall stated the issue is relative to Open Meeting Law and the fact that it has not been on the agenda for a super majority discussion would be the one reservation he sees. The Council has the right to amend the agenda item but the reservation he has is he has not been given the opportunity to research this matter and even though he is available and responsive, he has not been asked about this issue at this point in time until just now. The Council generally has the right to amend agenda items but his reservation is because the super majority does run directly to the financial stability of the City and wondered whether or not it would be stronger if it were re-agendized and re-debated. If, however, the Council wants to move forward with this proposed amendment to the motion that would be up to the Chair as to whether it goes forward as moved. The stronger position, because it does run to the financial stability of the budget, would be to re-agendize it.

Councilor Shapera asked Mr. Hall to explain the financial aspect he is referring to and exactly how it would affect the financials of the City when there has to be an agreement between both bodies, the Association and the City, before being brought to the Council. All a super majority says is more votes are needed to change that particular ordinance. Mr. Hall asked Councilor Shapera what he meant as a super majority. Councilor Shapera stated the super majority is explained in the City Code and it explains what a super majority is which is a

majority plus one. Instead of a 4/3 vote a majority plus one would be required. Mr. Hall stated the reason he has a reservation is he thinks the Mayor explained the most expensive item you vote on is before Council tonight and he believes because the Mayor expressed that reservation, that reservation ought to be respected.

**A roll- call vote was requested on the amended motion: Councilors Shapera, Delgado, Selby and Jones cast YES votes and Councilor Palladino and Mayor Mook cast NO votes – motion passed 4/2.**

## **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:

1. Dysart Community Center Annual Report

Dr. Isom reported last fiscal year there was a request from the City Council for an accounting of money donated to the Dysart Community Center and reports were handed out to each Councilor at this time.

**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.

Mayor Mook announced the next El Mirage City Council Meeting will need to be held on Thursday, July 6<sup>th</sup> rather than Wednesday, July 5<sup>th</sup> due to conflicting schedules. Council was polled and all present will be available.

Councilor Shapera stated he had not yet received a response regarding his inquiry on the 45 minute police response time on a call discussed at the last meeting. He asked Chief McDonald if the response time could, in fact, have been 45 minutes and Chief McDonald confirmed that in this instance it was approximately 45 minutes because of other circumstances at the time and the nature of this call; he also noted that a citation was given to the offending citizen.

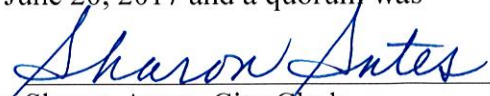
Councilor Delgado advised that the City of Surprise Recreation Director, Mark Coronado, passed away this week and he commented on Mark’s help in the past. The services will be held on Thursday, June 22<sup>nd</sup>, at 10:00 am at St Mary’s Basillica in downtown Phoenix. The burial will follow with a gathering across from the Bank One Ballpark. Councilor Delgado said Mark was an El Mirage boy and would do anything for El Mirage.

**IX. ADJOURNMENT** - The meeting was adjourned at 7:11 pm.

  
\_\_\_\_\_  
Lana Mook, Mayor

Attest:  
  
\_\_\_\_\_  
Sharon Antes, City Clerk

I hereby certify the aforementioned minutes are a true and accurate record of the Regular El Mirage City Council Meeting held on Tuesday, June 20, 2017 and a quorum was present.

  
\_\_\_\_\_  
Sharon Antes, City Clerk