

**REGULAR MEETING OF THE COMMON COUNCIL  
OF THE CITY OF EL MIRAGE  
EL MIRAGE CITY COUNCIL CHAMBERS  
14010 N. EL MIRAGE ROAD  
TUESDAY, JANUARY 21, 2013**

**Minutes**

**I. ROLL CALL**

Present: Mayor Lana Mook, Vice Mayor Joe Ramirez, Councilor David Shapera, Councilor Jim McPhetres, Councilor Jack Palladino, Councilor Lynn Selby

Excused: Councilor Roy Delgado

Councilor Palladino arrived at 6:12 pm

**II. CALL TO ORDER**

The workshop meeting was called to order by Mayor Lana Mook at 6:00 p.m.

Pledge of Allegiance

Moment of Silence

**III. PRESENTATIONS**

**PI** Discussion and no action regarding Family Dollar Store site plan in the Urban Corridor zoning district within the Thunderbird Road Overlay District in the City of El Mirage, Arizona. (Development & Community Services)

City Engineer Jorge Gastelum, Civil Engineer Patrick Lowry and Engineer Kevin Roberts from Dibble Engineering presented concept and plans for a Family Dollar Store on Thunderbird Road within the Thunderbird Overlay District. General site plan information was presented and Mr. Roberts commented that this would be the first of its kind to comply with the concept of the Overlay District.

**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 general 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.

There were no consent items on this agenda.

**VI. REGULAR AGENDA**

- A. Consideration and action to adopt Resolution R14-01-03 authorizing the acquisition of Right of Way for the El Mirage Road project, including Thunderbird Road (City Project No. EM13-ROW01). (Development & Community Services)

City Engineer Jorge Gastelum and Engineer Kevin Roberts from Dibble Engineering presented a PowerPoint presentation outlining areas identified along El Mirage Road, including Thunderbird Road, for acquisition and requesting authorization through the Resolution to proceed with the acquisition.

Councilor McPhetres voiced his objection to the portion of the resolution making reference to eminent domain stating he would not support any acquisition by means of eminent domain because he felt it was against good property rights.

Councilor Palladino asked how many properties might need to be acquired through eminent domain and was informed by Mr. Roberts that there were no plans to use eminent domain as a means of acquisition but that it was a legal course of action needing to be included in the resolution on the off-chance it might be required. All indications thus far on the potential impacts from all the public meetings held on the plans have shown nothing but positive comments and excitement about the project. Dr. Isom added to Mr. Robert's comments by stating that eminent domain is not a negative process but one grounded in protection for property owners and taxpayers through State statutes.

Resident Jeffrey West stated he was an El Mirage renter but felt strongly in the foundation of property rights and that the threat of taking someone's property if unable to negotiate is not negotiating in good faith and simply wrong.

Resident Jonathan Mechan is a property owner in El Mirage who stated he believed the threat of taking someone's property if unable to negotiate is disingenuous and that the entire purpose of government is to protect property rights.

Dr. Isom stated that public roadway improvements require land acquisition and when a purchase is made property owners receive fair market value, by law and practice, such that all parties are made whole. All purchases are lawful and all will be treated fairly.

Business owner Edgar Medina inquired about changes along Thunderbird Road that will impact his business stating that previous changes to Thunderbird Road, in fact, impacted his business negatively. Mr. Roberts from Dibble Engineering was asked to meet with Mr. Medina and discuss the impact of planned improvements to his business. Dr. Isom

and Mr. Roberts both also encouraged Mr. Medina to inform other business owners to contact the City for information on the potential impact the improvements may have on their businesses. Mayor Mook advised Mr. Medina that the Council is aware of the issues along Thunderbird and these improvements are meant to address needed repairs and fix a number of issues that include safety, pedestrian and parking.

Mayor Mook stated that this long term project is moving in the right direction for the good of the citizens and requested the following statement be read and made a part of these minutes:

*The Power of eminent domain existed before the Constitution was adopted. It is reflected in the 5<sup>th</sup> Amendment. It applies to the states through the 14<sup>th</sup> Amendment. The courts have been careful to find the balance between what is needed for a "public use" and the rights of private property holders. As a private property owner, I cherish that right. I respect all of you who cherish that right.*

*Once a public use is determined, then there must be "just compensation" if it is determined that a parcel or just apportion of the parcel is needed. These projects were put into motion long before any of us were elected. A lot of planning and money has been committed to these projects. Large sums of money have been committed from state and county revenues to be expended in our City.*

*The process we have voted on heretofore has been completely open. Maps have been and are available to the public. Up until tonight, so far as the record shows, this Council has been unanimous in voting for the projects. The purpose of this vote tonight is to allow the process to move forward that allows our City representatives to seek solutions that will give just compensation to every owner. It has been open, it has been transparent, it has been fair, and it will continue to be fair. It has to be ... it is the law.*

Councilor Shapera stated this project has been in process since at least 2008. There was previously much larger takes planned that this Council changed to have the least adverse impact to homeowners and still make the improvements. These roadway improvements are absolutely necessary and have been very public throughout the process.

Vice Mayor Ramirez also commented that this project has been in process for many years and that all citizens will be treated honestly and fairly. He encouraged Mr. Roberts to make contact with business owners along Thunderbird and continue the public outreach about the planned improvements. Mayor Mook added that there may not be widespread knowledge of how the planned improvements by ADOT for the Grand Avenue and Thunderbird Road intersection will connect to the east end of the planned Thunderbird Road improvements. Dr. Isom stated he would contact the project manager for the ADOT project to impress the need for public outreach because of the importance of both projects.

Councilor Palladino stated that this Council is business friendly and not here to hurt businesses. The improvements were being made, in part, to attract business to El Mirage. Councilor McPhetres noted that he was in full support of the project but believed in

property rights and wanted the eminent domain reference removed from the proposed resolution. He further stated that negotiations should be in good faith entirely and not have property taken from owners. The City should negotiate and acquire properties correctly and use whatever needs to be done by paying whatever that the homeowner or business owner says their property is worth to them. Councilor Selby added that the improvements should bring in business and will improve traffic counts.

**Councilor Shapera moved to approve Resolution R14-01-03 authorizing the acquisition of property for the El Mirage Road project, including Thunderbird Road, as presented; seconded by Vice Mayor Ramirez. Motion carried (5/1). Councilor McPhetres cast a Nay vote.**

- B. Consideration and action to authorize the City Manager to utilize the State of Arizona contract #EPS090016-2-A1, with Ferguson Enterprises, for utility system parts and materials, in an amount not to exceed \$50,000. (Public Works)

DCM Dobrosky presented the need for entering into the contract with Ferguson Enterprises through the state contract identified.

**Vice Mayor Ramirez moved to authorize the City Manager to use the State contract for Ferguson Enterprises as presented; seconded by Councilor Shapera. Motion carried unanimously (6/0).**

- C. Consideration and action to enter into a contract with Waste Management of Arizona for sludge hauling and disposal services. (Public Works)

DCM Dobrosky advised Council that three bids were received for this service; one was determined to be non-compliant and the next lowest bidder was Waste Management.

Councilor McPhetres asked if the service provided by Waste Management could be done by the City and was advised by Mr. Dobrosky that there was no one currently interested in the product and the removal of waste by Waste Management was the most cost effective method at this time. Councilor Selby requested if Parks & Sons submitted a bid and was advised that they did but they were not the lowest bidder.

**Vice Mayor Ramirez moved to enter into a contract with Waste Management of Arizona for sludge hauling and disposal services as presented; seconded by Councilor McPhetres. Motion carried unanimously (6/0).**

## VII. CITY MANAGER SUMMARY OF CURRENT EVENTS

Dr. Isom reminded Council and the public that the first City sponsored Special Event of the New Year is Youth Day to be held Friday, January 24, 2014 at the El Mirage City Plaza from 5 – 9 PM and invited all to attend the event. The new Police station Grand Opening ceremony will be held Thursday morning, January 24, 2014 in front of the main entrance to the new police station. He also advised Council that the City is being recommended for an annual allocation of 1,318 acre feet of CAP water allocation and that the City was one of 13 out of 17 applicants being considered to receive CAP funds.

He complimented staff on their excellent preparation of the application to the State requesting the allocation.

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

Vice Mayor Ramirez stated that he has been very concerned about the City’s water supply and is more secure in this allocation recommendation; it is a “big deal” and he complimented staff on the thoroughness of the State application and being recommended for CAP water.

**IX. EXECUTIVE SESSION**

A. Adjourn into Executive Session:

1. To conduct an annual review of the City Manager’s stewardship.
2. To discuss the City Attorney’s contract.

**Vice Mayor Ramirez moved to adjourn in to Executive Session as noted on the agenda; seconded by Councilor Shapera. Motion carried unanimously (6/0).**

Meeting adjourned at 7:16 p.m.

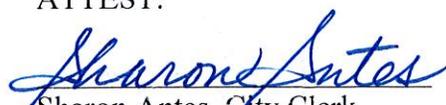
Executive Session began at 7:22 p.m.

**X. ADJOURNMENT**

Mayor Mook adjourned the meeting at 7:59 p.m.

  
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 Lana Mook, Mayor

ATTEST:

  
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 Sharon Antes, City Clerk

I hereby certify the foregoing minutes are a true and accurate record of the City of El Mirage Workshop and Regular Council Meeting held January 21, 2014 and a quorum was present.

  
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 Sharon Antes, City Clerk