

**REGULAR MEETING OF THE COMMON COUNCIL  
OF THE CITY OF EL MIRAGE  
EL MIRAGE MUNICIPAL COURT  
14010 N. EL MIRAGE ROAD  
6:00 P.M., THURSDAY, JULY 12, 2007**

**Minutes**

- I. **CALL TO ORDER** – The meeting was called to order by Mayor Fred Waterman at 6:00 p.m. Council led the public in the Pledge of Allegiance and a Moment of Silence.
- II. **ROLL CALL** – Present were: Mayor Fred Waterman, Vice Mayor Michele Kern, Councilor Bill Conner, Councilor Roger Cleveland, Councilor Roy Delgado, Councilor Adam Super. Absent: Councilor Xavier Bedolla.

Present were: City Manager BJ Cornwall, City Attorney Fredda Bisman, Police Chief Ken Holmes, Fire Chief Scott Alvord, Finance Director Larry Price, Community Development Director George Flores, Human Resources Director Toni Brown, Technology Services Director Pat Timlin, Public Works Director Lance Calvert, City Clerk Richard Saathoff.

III. **CONSENT AGENDA**

Mayor Fred Waterman stated that Consent Agenda item #3 is to be removed completely from the agenda.

1. **Consideration and action regarding approving Resolution R07-07-13, authorizing an application to the Water Infrastructure Finance Authority (WIFA) for a voter approved water and wastewater projects financing loan in the amount not to exceed \$7,000,000.**
2. **Consideration and action regarding approving of a professional services contract with Coe & Van Loo Consultants for a not to exceed amount of \$66,260 for design and regulatory services of a new backup disinfection system at the Water Reclamation Facility.**
3. **Consideration and action on Resolution No. R07-07-14, approving the Final Plat of Thompson Ranch Phase 4, a 93 lot single family residential plat northeast of prior phases along Thompson Ranch Road.**

4. **Consideration and action on approving the dedication of 55 feet of right-of-way that is part of the "Surprise Pointe" final plat. Right-of-way is parallel to the monument line of Dysart Road and is between Thunderbird Road and Sweetwater Avenue alignment and is within the City limits of El Mirage.**
5. **Consideration and action regarding Resolution R07-07-15, authorizing the submission of Letter of Intent(s) and application(s) for State Housing Funds which may include funding thru HOME Investment Partnership Program or State Housing Funds or other sources.**

Councilor Super made a motion to approve consent agenda items 1, 2, 4, and 5; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

#### **IV. MAYOR'S COMMENTS**

Mayor Fred Waterman said that the Las Brisas school site was voted in by the school board to be built. The Mayor thanked all of the citizens who showed up in support of the school.

Mayor Waterman called for an amended agenda stating that there will be two Council Summaries of Current Events. Mayor Fred Waterman called on Councilor Delgado.

Councilor Delgado thanked all of the residents that volunteered their time to help beautify the City of El Mirage library.

Councilor Delgado stated that some of the activities included prepping surfaces, scrapping paint, caulking, replacing boards, painting, and landscaping. There was even a surprise visit from Ms. Jane King, Chair Lady from the County Library Advising Committee.

Councilor Delgado presented awards to Windermere Real Estate, Neils Garage Cabinets, Randy Freberg from R & S Services, Jeremy Gonzales

from R & S Services, and Mary Beth from Kennan Painting for all of their help and donations.

**V. REGULAR AGENDA**

- A. Discussion and possible action concerning providing direction to the City Manager regarding a full service law enforcement contract with the Maricopa County Sheriff's Office (MCSO) for public safety services. If no future contract is authorized, the current contract with the MCSO will expire in 90 days.**

City Manager BJ Cornwall said, "I stand before you tonight with an extremely important decision to be made by the Council. You must decide whether or not you want an El Mirage Police Department or the Maricopa County Sheriff's Department providing services to our City. It has been from the beginning, our mission to rebuild the Police Department of our City. It is imperative to the citizens and businesses of this community to provide quality law enforcement so that all people feel safe within our City. It is also important for a City to keep, as well as foster its own identity. A key component of that is having your own police department, especially for the population that our City has. I know where we were as a department when we asked the Sheriff's Department to come in and help us rebuild. I know where we stand today as a department and I believe I know where we can be in 90 days if the City Council does not accept the contract proposal. Based upon that, I recommend that the City Council not approve the contract for full service with the Maricopa County Sheriff's Office. With that said, I can only sing the praises of Sheriff Arpaio, Chief Hendershot, and all the MCSO people that have come to El Mirage. They have been exemplary in all the things that they have done for us. Because of them, I am able to make the recommendation and they will always have my respect, and deepest gratitude for helping us, when we desperately needed it. Any questions please?"

**Mary Izaguirre**

Mary Izaguirre exclaimed that she would like to see the City Council vote in the City's own police department. Mary Izaguirre thanked the Sheriff's Department for all of their help.

**Bob Jones**

Bob Jones, 12829 W. Corrine Dr, El Mirage. Mr. Jones urged Council to approve the City's own police department. Mr. Jones stated that on three separate occasions he has tried to call the non-emergency line but the

phone just rings or when it is picked up, an officer is dispatched long after the call was originally made.

Bob Jones said that he has nothing against the County because they came to the Cities aid when the City needed it most. It's simply that the County is short-handed.

Councilor Delgado thanked the Maricopa County Sheriff's Office for helping the City of El Mirage when it was needed the most. He stated that there was an incident out in the Ranchettes and that it was handled very professionally by the Police Department.

Councilor Delgado stated that he would like to see the Cities own Police Department back in action.

Mayor Fred Waterman stated that when he originally sat down with the Sheriff's Office, they figured it would take three years to get to the point where the City could have its own Police Department but due to the expertise of the Maricopa Sheriff's Department, the City has reached that time now, almost a full year ahead.

Mayor Waterman thanked the Sheriff's Office for everything that they have done.

Mayor Waterman made a motion to refuse a full service law enforcement contract with the Maricopa County Sheriff's Office; seconded by Councilor Delgado.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

Vice Mayor Michele Kern asked the citizens to please be patient during this transition period over the next six months. There may be times when services might not be to full capacity but there will always be officers patrolling.

**B. Consideration and action on opening a public hearing on plan amendment, rezoning, and site plan/plat for Mirage Oasis Retail Center at the SE corner of Dysart and Greenway Roads.**

Economic Development Director George Flores stated that in order to proceed with the development of the Mirage Oasis Retail Center, the Council will have to amend the general plan from public/semi-public to community/commercial use. Staff recommends approval subject to certain stipulations.

Bob Kubicek from Robert Kubicek Architects presented an overview of the access points and stated that the current problem is that there is an existing agreement between Walgreen's and the developer for the cross access points.

Barry Shannahan, Vice President of development for Red Development stated that in April of 2000, a declaration of easements, covenants, and conditions and restrictions was filed between Walgreen's and the owner of the Walgreen's by a company named Catcher Real Estate Investments.

Mr. Shannahan exclaimed that Fresh and Easy Neighborhood Markets has entered into a purchase agreement with the developer to occupy space within the shopping center property but in order to accomplish that, the declaration that exists between the property and Walgreen's needs to be amended.

The main concern is over the access points that were originally granted by the City and currently enjoyed by customers and whether or not the development of the shopping center would create restrictions over the access points that are currently in use.

Chuck Wright from Hinderhorn and Associates said that he and his company looked at the traffic circulation and cross access issues and stated that it is very unusual to not have cross access within the current configuration but there are additional challenges due to the proximity of turning movements.

Bob Kubicek thanked George Flores and staff for all of their help with the project.

Vice Mayor Kern made a motion to approve this item subject to the end result meeting the City of El Mirage criteria as defined by the stipulations; seconded by Councilor Delgado.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none

Absent: Bedolla  
Motion: Carried

**C. Consideration and action regarding the closing of the public hearing on zoning item.**

Councilor Delgado made a motion to close the public hearing; seconded by Councilor Cleveland.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**D. Consideration and action approving Resolution No. R07-07-16, for minor amendment to the General Plan from Public/Semi-Public to Community Commercial on 10.34 acres east of the southwest corner of Dysart and Greenway Roads in front of Surprise Elementary School.**

Councilor Conner made a motion to approve Resolution R07-07-16; seconded by Councilor Delgado.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**E. Consideration and action approving Ordinance No. O07-07-05 amending zoning from R-1 to B-2 on 10.34 acres east of the SE corner of Dysart Rd and Greenway Rd in front of Surprise Elementary School.**

Councilor Delgado made a motion to approve Ordinance O07-07-05; seconded by Councilor Cleveland.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**F. Consideration and action regarding a request for preliminary plat and site plan approval for Mirage Oasis at the southeast corner of Dysart and Greenway Roads.**

Councilor Conner made a motion to approve the preliminary plat and site plan for Mirage Oasis; seconded by Councilor Delgado.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**G. Consideration and action regarding convening as the Board of Adjustment and open a public hearing to consider a variance to allow a 239 sq ft sign (max is 150 sq ft) in I-2 for Hanson Pipe at 12600 W. Northern Avenue.**

Vice Mayor Michele Kern made a motion to convene into the Board of Adjustment and open a public hearing; seconded by Councilor Super.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

Economic Development Director George Flores said that this is a request from Hanson Pipe to allow a 249 square foot sign versus the allowed 150 square foot sign allowed on this site by zoning. Staff believes that the request is reasonable and recommends approval.

**H. Consideration and action regarding closing the Board of Adjustment public hearing.**

Councilor Super made a motion to close the Board of Adjustment public hearing; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**I. Consideration and action on a request by 1<sup>st</sup> Signs for a variance to allow a 249 sq ft sign in I-2 for Hanson Pipe at 12600 W. Northern Avenue.**

Councilor Delgado made a motion to approve the sign variance; seconded by Vice Mayor Kern.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**J. Consideration and action regarding the closing of the meeting of the Board of Adjustment and reconvening as the City Council.**

Councilor Super made a motion to close the Board of Adjustment and reconvene into regular session; seconded by Councilor Cleveland.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**K. Consideration and action to open a public hearing to hear a request for a liquor licenses from:**

- 1) **Alpin Mullai – Marios Pizza – 13915 N. Dysart Road.**
- 2) **Sabino Rubio Jr. – La Fondita Mexican Resturant – 12020 W. Thunderbird Road.**
- 3) **Randy Nations -- Fresh & Easy Neighborhood Market – SE corner of Dysart and Greenway Roads.**

Councilor Conner made a motion to open a public hearing regarding three liquor licenses; seconded by Cleveland.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

Police Chief Ken Holmes said that the three liquor licenses have been properly posted, criminal fingerprints have been taken of each of the

applicants, a records check has been completed and there is no information that would preclude any one of these three applicants from acquiring a liquor license.

**L. Consideration and action regarding the closing of the public hearing.**

Councilor Super made a motion to close the public hearing; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**M. Consideration and action regarding making a recommendation to Arizona Department of Liquor Licenses & Control on the request from Alpin Mullai, Marios Pizza Inc for a liquor license at 13915 N. Dysart Rd.**

Councilor Delgado made a motion to approve a liquor license for Alpin Mullai for Marios Pizza; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**N. Consideration and action regarding making a recommendation to the Arizona Department of Liquor Licenses & Control on the request from Sabino Rubio, Jr, La Fondita Mexican Restaurant for a liquor license at 12010 W, Thunderbird Road.**

Councilor Super made a motion to approve a liquor license for Sabino Rubio at La Fondita Mexican Restaurant; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**O. Consideration and action regarding making a recommendation to the Arizona Department of Liquor Licenses & Control on the request**

**from Randy D. Nations, Fresh & Easy Neighborhood Market, Inc for a liquor license at the southeast corner of Dysart and Greenway Rd.**

Vice Mayor Kern made a motion to approve a liquor license for Randy D. Nations at Fresh and Easy Neighborhood Market, Inc; seconded by Councilor Super.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

Councilor Super requested a five minute recess.

Mayor Fred Waterman resumed the Council meeting at 6:55 p.m.

**P. Consideration and Action regarding Resolution No. R07-07-17, declaring as a public record that certain document titled "Chapter 6 Animal Code" of the City Code of the City of El Mirage.**

Councilor Delgado stated that he didn't like Councilors getting together and writing code. He said that the Cities "Dream Team" should help with this type of City business.

Councilor Delgado exclaimed that he thought that the new wording was too hard for citizens to understand and that the new code "hamstrings" those individuals who may have more than four animals on their property.

Vice Mayor Kern said that the new code defines a wild animal, states that you can't abuse an animal, adds new sections to cover grey areas not defined in the old code and gives the City authority to enforce these new rules.

Vice Mayor Kern said that Councilmembers should be working together to create and set policy because that is what they are elected to do. In the future, it might be helpful to create subcommittees to help look at certain projects.

Councilor Delgado stated that if the "Animal Code" is adopted, it shouldn't be adopted under an emergency.

Councilor Conner said that the new code is necessary in order to better control loose animals in the City which is a public safety issue.

Vice Mayor Kern made a motion to approve; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Kern, Super, Waterman  
Nay: Delgado  
Absent: Bedolla  
Motion: Carried

- Q. Consideration and Action regarding Ordinance No. O07-07-06, repealing Chapter 6 of the El Mirage City Code, "Animals" and adopting and making a part of the City of El Mirage City Code that certain document titled "Chapter 6 - Animal Code" and declared to be a public record by Resolution No. R07-07-17, and an emergency is being declared.**

Councilor Super stated that after further review with staff it was determined that there is no emergency condition. Councilor Super asked to remove the emergency clause from the Ordinance.

Vice Mayor Kern made a motion to approve with no emergency clause; seconded by Councilor Cleveland.

VOTE: Yea: Cleveland, Conner, Kern, Super, Waterman  
Nay: Delgado  
Absent: Bedolla  
Motion: Carried

- R. Consideration and action approving a contract for services between Area Agency on Aging, Region One, Incorporated and the City of El Mirage in the amount of \$137,985.**

City Manager BJ Cornwall stated that this is our annual contract for Area Agency for the Senior Center services and this amount was approved in this years FY budget.

Councilor Conner asked if staff could take a look at the actual real dollar terms of what this program costs and its impact on the City of El Mirage and specifically with reference to what services are we providing citizens of other cities.

Councilor Cleveland made a motion to approve the Area Agency on Aging contract; seconded by Mayor Fred Waterman.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

**S. Consideration and action regarding Resolution No. R07-07-18, a resolution of the Mayor and Council of the City of El Mirage, Arizona denouncing the appointment to the Dysart Unified School District Governing Board of a non El Mirage applicant.**

Councilor Super requested that the entire resolution be read into the record.

City Clerk Richard Saathoff: WHEREAS, on June 21, 2007, the Maricopa County Superintendent of Schools announced that a non City of El Mirage applicant had been appointed to fill the vacancy on the Dysart Governing Board, and;

WHEREAS, there are several qualified candidates who are residents of the City of El Mirage to fill the aforementioned vacancy, and;

WHEREAS, there is no representation for the City of El Mirage on the Dysart Unified School District No. 89 Governing Board, and;

WHEREAS, five of the nineteen schools in the Dysart Unified School District No. 89 are located within the City of El Mirage, and

WHEREAS, the lack of representation on the Governing Board by a resident of the City of El Mirage could adversely affects the quality of life of our citizens – young and old – who need and deserve meaningful representation, and;

WHEREAS, the concerns of a super majority of the Common Council of El Mirage and civic groups from El Mirage were patently and publicly ignored, and;

WHEREAS, the process by which the appointee was chosen was *prima facie* flawed, as being conducted by persons with no authority or experience sufficient to make the appointment, and;

WHEREAS, the reasons for such appointment were both illogical and unreasonable and not rationally related to the criteria important to and necessary for such an appointment,

THEREFORE, BE IT RESOLVED, BY THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, ARIZONA that by and through this resolution it expresses its outrage and consternation over the aforementioned appointment that occurred with a complete and total disregard of reason during this process.

FURTHER BE IT RESOLVED that the Common Council is deeply disappointed in and flummoxed by the lack of professionalism in said appointment process.

FINALLY BE IT RESOLVED that the Common Council queries how an intelligent appointment can be made when the person ultimately responsible for the appointment has no role in the interview of candidates.

Councilor Delgado questioned how does the lack of representation of the governing board by a resident of the City of El Mirage "adversely" affects the quality of life of our citizens.

Councilor Delgado stated that this resolution is not an expression of his opinion.

Mayor Fred Waterman asked if the word "could" might be inserted in the Resolution before the word "adversely".

Councilor Conner made a motion to accept the word "could" before the word "adversely"; seconded by Councilor Super.

VOTE: Yea: Cleveland, Conner, Delgado, Super, Waterman  
Nay: Kern  
Absent: Bedolla  
Motion: Carried

Councilor Conner made a motion to approve the resolution with the Stipulation to accept the word "could"; seconded by Councilor Super.

VOTE: Yea: Cleveland, Conner, Super, Waterman  
Nay: Delgado, Kern  
Absent: Bedolla  
Motion: Carried

**VI. COUNCIL SUMMARY OF CURRENT EVENTS**

Councilor Super stated that the City is putting together an administrative procedures committee and if anyone is interested, they should submit their letters of intent to JoAnne Garrett, Executive Assistant to City Manager BJ Cornwall.

**VII. CITY MANAGER SUMMARY OF CURRENT EVENTS**

City Manager BJ Cornwall said that the City has updated the website. He thanked Pat Timlin and JoAnne Garrett for all of their hard work for getting the website up and running.

The official opening of the Wal-mart Super Center will be at 7:30 a.m. Wednesday, July 18<sup>th</sup>.

City hall renovations are going well but they recently ran into some structural problems that have currently slowed progress.

Hanson Pipe will have their grand opening on October 3, 2007.

City Manager BJ Cornwall exclaimed that last night the Dysart School District voted to have a school built at the Las Brisas site. Mr. Cornwall thanked the Council and the citizens of this community for all of their support.

**VIII. CALL TO THE PUBLIC**

Mary Izaguirre thanked the Council for voting to bring back the El Mirage Police Department. Ms. Izaguirre asked Council to consider bringing back dispatch as well.

Bob Jones thanked the Council and City Manager for their efforts in getting the Las Brisas school voted in.

Loretta Barkell, Chief of Business Operations with the Maricopa County Sheriff's Office, thanked the El Mirage citizens for allowing them the opportunity to provide law enforcement services to the City.

Loretta Barkell said that they are very proud of the Captains and the Officers that have served the City of El Mirage and they have done an outstanding job representing the Sheriff's Office.

Loretta Barkell stated that at this time, the Sheriff's Office will begin the 90 day transition and will begin transitioning Maricopa County Sheriff's Officers to the illegal immigration task force as well as to other contract cities.

**IX. EXECUTIVE SESSION**

No Executive Session has been requested.

**X. ADJOURNMENT**

Councilor Delgado made a motion to adjourn at 7:24 p.m.; seconded by Councilor Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Super, Waterman  
Nay: none  
Absent: Bedolla  
Motion: Carried

  
Fred Waterman, Mayor

ATTEST:

  
Richard Saathoff, City Clerk

I hereby certify the foregoing minutes are a true and accurate record of the City of El Mirage Regular Council Meeting held on July 12, 2007 and a quorum was present.

  
Richard Saathoff, City Clerk