

**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, OCTOBER 25, 2007**

Minutes

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

Staff present were – City Manager B.J. Cornwall, City Attorney Rick Flaaen, Police Chief Michael Frazier, Acting Fire Chief Daryl Rezendes, 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. Excused: Assistant City Manager Spencer Isom.

III. **CONSENT AGENDA**

Councilor Xavier Bedolla removed consent agenda item number one (1) and moved it to the Regular Agenda.

1. **Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, October 11, 2007.**
2. **Consideration and action approving the destruction of records which have surpassed their retention period as approved by the Arizona State Library, Archives and Public Records.**
3. **Consideration and action regarding the authorization to sell an out of service, surplus fire engine.**
4. **Consideration and action to give signature authority to the City Manager to sign a Professional Services Contract with Nfra Engineering for design services for Peoria Ave and Primrose Ave. The contract amount \$151,182 plus a 10% contingency, for a total of \$166,300.**

5. **Consideration and action to give signature authority to the City Manager to sign a Professional Services Contract with Logan Simpson Design Inc. for a not to exceed amount of \$58,767 for Heritage Park planning and needs assessment.**
6. **Consideration and action to award a contract for asphalt to Western Emulsions in the amount of \$184,957.90.**
7. **Consideration and action to award a contract for asphalt to Regional Pavement Maintenance in the amount of \$178,134.24.**
8. **Consideration and action regarding proposed Resolution No. R07-10-25 adopting the updated valuation and fee chart for Building permits and review fees.**
9. **Consideration and action regarding the adoption of Resolution No. 07-10-24, declaring as a public document, exhibit "A" amending City El Mirage City Code – Chapter 7 – Building.**
10. **Consideration and action regarding the adoption of Ordinance No. 07-10-09, amending Chapter 7 – Building of the City of El Mirage City Code.**
11. **Consideration and action regarding the adoption of Ordinance No. 007-10-10, amending Chapter 11 – Offenses, adding Section 11-1-18 relating to and declaring unlawful the improper disposal of flaming or glowing substances and cigarettes.**

Councilor Delgado made a motion to approve Consent Agenda items 2-11; seconded by Councilor Super.

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

1. Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, October 11, 2007.

Councilor Super made a motion to approve the Regular Council Meeting Minutes held Thursday, October 11, 2007; seconded by Councilor Delgado.

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

IV. MAYOR'S COMMENTS

Vice Mayor Michele Kern stated that Mayor Fred Waterman is attending Westmarc's Best of the West tonight.

V. REGULAR AGENDA

A. Consideration and action regarding convening as the Board of Adjustment to consider an appeal of staff refusal to accept an application for a conditional use permit for a church in R-43 within 75db noise zone overlay at the northeast corner of Desert Cove Road and 125th Avenue.

Councilor Super made a motion to convene into the Board of Adjustment and into a public hearing; seconded by Councilor Bedolla.

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

Community Development Director George Flores stated that the issue at hand is whether or not the church would be built within the 75 db noise contour lines enforceable by Arizona Revised Statutes.

Councilor Delgado asked what would be the church's intended hours of Operation.

Community Development Director George Flores stated that it isn't an

issue of what hours they intend to be open, it's whether or not the intended church would be built within the 75 db noise contour lines that is enforceable by state law.

Head Elder Randy Fields for the North Valley Seventh-day Adventist Church believed that the City made an error by denying the North Valley Seventh Day Adventist Church permission to construct a devotional building.

Head Elder Randy Fields stated that the noise contour maps used to deny construction of the church are out of date and believed that the area in question is zoned as R-7 not R-43.

Head Elder Randy Fields believes that by constructing the church, they would not be encroaching, but rather infilling.

Retired Lieutenant Cornel James Mitchell from Luke Air Force Base explained that the 1988 noise contour lines were incorporated into Arizona State Statutes in 2001. The 2003 JLUS lines are the current mission lines but they are not incorporated into Arizona State Statutes.

Mr. Tom Ferruccio – 11201 N. 125th Ave. El Mirage, AZ

Mr. Ferruccio owns the property adjacent to the land in which Head Elder Randy Fields would like to build the Seventh-day Adventist Church. He is concerned about the length of weeds around the property and would also like to see a plat for the site to see the specifics of the Church.

Mr. Kevin Maury, a member of the Seventh-day Adventist Church, explained that under Arizona State Statute 28-8470, which deals with airport regulations, "all applications for permits shall be granted".

City Attorney Rick Flaaen stated that Title 28 Chapter 25 Article 7 of the Arizona Revised Statutes is not applicable to military airports, strictly regional airports.

Mr. Kevin Maury disagreed with the opinion of City Attorney Rick Flaaen. Mr. Kevin Maury believes that the variance shall be granted due to the spirit of the law.

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

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

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

C. Consideration and action on appeal of staff refusal to accept application for a conditional use permit for a church in R-43 within 75db noise zone overlay at the northeast corner of Desert Cove Road and 125th Avenue.

Councilor Super made a motion to uphold staffs refusal to accept an application for a conditional use permit for a church in R-43 within the 75 db noise zone overlay at the northeast corner of Desert Cove Road and 125th Avenue; seconded by Councilor Cleveland.

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

D. Consideration and action regarding closing the meeting of the Board of Adjustment and reconvening into Regular Session.

Councilor Super made a motion to close the meeting of the Board of Adjustment and reconvene into Regular Session; seconded by Councilor Cleveland.

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

E. Discussion of Independent Investigation. The City Council will consider waving the attorney-client privilege and bringing before Council at its next meeting for public discussion the results of an independent investigation conducted at the request of the City.

Councilor Delgado made a motion to wave the attorney-client privilege and bring the item before Council at its next meeting for public discussion; seconded by Councilor Super.

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

VI. COUNCIL SUMMARY OF CURRENT EVENTS

Councilor Super said that the Administrative Procedures Committee had their first meeting last night and recommendations will be brought before Council in the near future.

VII. CITY MANAGER SUMMARY OF CURRENT EVENTS

City Manager BJ Cornwall stated that Fire Chief Scott Alvord has resigned and he thanked him for his service to the City of El Mirage.

The Police Department transition is going extremely well.

The City received their first sales tax check from Wal-mart.

George Flores, the City of El Mirage Community Development Director, was inducted into the ASU alumni hall of fame today.

VIII. CALL TO THE PUBLIC

There were no speakers.

IX. EXECUTIVE SESSION

No Executive Session has been requested.

X. ADJOURNMENT

Councilor Super made a motion to adjourn at 6:39 p.m.; seconded by Councilor Cleveland.

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

Absent: Waterman
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 October 25, 2007 and a quorum was present.

Richard Saathoff, City Clerk