

**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, MAY 22, 2008**

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.
- II. **ROLL CALL** – Present were: Mayor Fred Waterman (via phone), Vice Mayor Michele Kern, Councilor Xavier Bedolla, Councilor William Conner, Councilor Roger Cleveland, Councilor Roy Delgado, Councilor Adam Super.

III. **CONSENT AGENDA**

Vice Mayor Kern removed items A and E from the Consent Agenda to be voted on separately.

- A. **Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, May 8, 2008.**
- B. **Consideration and action to approve the increase to the AFLAC Flexible Spending Account (FSA) plans annual maximum.**
- C. **Consideration and action authorizing the City Manager to award the contract for Peoria Avenue Improvements to Grey Mountain Construction in the amount of \$759,921.71 and approve a 10% contingency in the amount of \$75,992.17, for a total request of \$835,913.88.**
- D. **Consideration and action authorizing the City Manager to award the contract for Onsite Chlorination/Dechlorination project to City Wide Contracting in the amount of \$355,150.00 and approve a 10% contingency in the amount of \$35,515.00, for a total request of \$390,665.00.**
- E. **Consideration and action approving a lease of 18.22 acres with the John F. Long Trust for future City use including park and water system improvements.**
- F. **Consideration and action authorizing the City Manager to award the Construction Manager at Risk Construction Services contract for Dysart Road Paving Improvements to Haydon Building Corporation in the amount of \$3,505,508.53.**

Councilor Super made a motion to approve Consent Agenda items B, C, D and F; seconded by Councilor Conner.

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

IV. REGULAR AGENDA

A. Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, May 8, 2008.

Councilor Delgado said that he did not vote "Yea" for the formation of the Youth Interests Program Committee. He would like the official record to reflect this.

Vice Mayor Kern stated that she will not vote on this item since she was not at the last meeting.

Councilor Super made a motion to approve the Minutes from the Council Meeting held Thursday, May 8, 2008 with the noted changes; seconded by Councilor Bedolla.

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

E. Consideration and action approving a lease of 18.22 acres with the John F. Long Trust for future City use including park and water system improvements.

Councilor Super made a motion to approve the lease regarding 18.22 acres of land from the John F. Long Trust; seconded by Councilor Conner.

Councilor Delgado asked for clarification regarding the intended use/uses of the proposed 18.22 acres.

Vice Mayor Kern said that she was concerned with what would happen to any investments that were made in regards to construction if the lease was not renewed in the future.

City Attorney Rick Flaaen said that even though the letter does not necessarily outline the water uses, the actual lease agreement does and the lease is the official prevailing document.

City Attorney Rick Flaaen exclaimed that it is highly unlikely for the lease to not get renewed in the future since it was the intention of John F. Long to donate the designated land to the City of El Mirage. If for some odd reason the lease is not renewed, the only money that would be lost would be the initial investment money for grading and drainage of the piece of property.

There were no further comments. Vice Mayor Kern called for a vote.

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

1. Consideration and action approving a contract change to SightCare as the city's vision insurance provider as a voluntary contributory vision plan.

Councilor Super made a motion to approve the contract change to SightCare; seconded by Councilor Bedolla.

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

2. Consideration and action approving changes to HealthNet medical insurance contract by adding a PPO plan choice in addition to the current HMO plan.

Councilor Delgado made a motion to approve the changes to the HealthNet medical insurance contract by adding a PPO plan choice; seconded by Councilor Super.

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

3. Consideration and action approving Resolution R08-05-12, adopting the Tentative Budget for fiscal year 2008-09.

Councilor Super made a motion to approve the adoption of the Tentative Budget for FY 2008-09; seconded by Councilor Cleveland.

Vice Mayor Kern thanked staff for all of their hard work for putting together a great budget.

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

4. Consideration and action approving Resolution R08-05-13, tentative call for election and expressing intent to consider proposing an Alternative Expenditures Limitation – Home Rule Option for the fiscal years 2009-2010 through 2012-2013.

Councilor Super made a motion to approve Resolution R08-05-13; seconded by Councilor Conner.

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

V. MAYOR'S COMMENTS and COUNCIL SUMMARY OF CURRENT EVENTS

No comments were received.

VI. CITY MANAGER SUMMARY OF CURRENT EVENTS

Assistant City Manager Spencer Isom said that by the end of Summer, the City will have replaced or improved over 50 miles of road. He thanked the Public Works department and more specifically the Engineering department for coming up with innovative and cost effective ways of improving the roads.

There are 1,000 pool passes available to El Mirage residents for use at the Surprise pool center. The Dysart Community Center is distributing the pool passes.

VII. CALL TO THE PUBLIC

Jean Lewis – 12830 W. Ash St.

Jean Lewis stated that she is running for a seat on the Dysart Governing Board. She would like to see someone from the City of El Mirage sit on the Board so that the City is represented.

VIII. EXECUTIVE SESSION

Discussion and consultation for legal advice and to consider the City's position and instruct its attorneys regarding pending litigation, including the possible filing of appeal/petition for review to the Arizona Supreme Court regarding City of El Mirage v. City of Glendale, CV 2005-009570, 1 CA-CV 07-0209. A.R.S. § 38-431.03(A)(3) and (4).

Councilor Super made a motion to adjourn into Executive Session to discuss the possible filing of appeal/petition for review to the Arizona Supreme Court regarding City of El Mirage v. City of Glendale; seconded by Councilor Cleveland.

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

IX. REGULAR AGENDA continued

5. Consideration and action regarding the filing of appeal/petition for review to the Arizona Supreme Court regarding City of El Mirage v. City of Glendale, CV 2005-009570, 1 CA-CV 07-0209. A.R.S. § 38-431.03(A)(3) and (4).

Councilor Conner made a motion to file the appeal/petition for review to the Arizona Supreme Court regarding City of El Mirage v. City of Glendale CV 2005-009570, 1 CA-CV 07-0209. A.R.S. § 38-431.03(A)(3) and (4); seconded by Councilor Cleveland.

Councilor Delgado said that if a crime is committed a long time ago and is eventually found out now, then the criminal should still have to pay the price.

Councilor Super said that he is very disturbed by the precedent that the Court of Appeals has set and is perplexed by their reasoning.

Councilor Cleveland said that he is disappointed by how the legal system can do things like this to not just citizens, but an entire City.

Councilor Conner said that with each successive opinion and each level of review, the various courts logic on this case has become more tortured and less logical and it's become more disjointed and less sensible.

Councilor Bedolla said that he agrees with his fellow Councilmembers.

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

X. ADJOURNMENT

Vice Mayor Kern adjourned the meeting at 6:41 p.m.


Michele Kern, Vice Mayor

ATTEST:



FOR 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 May 22, 2008 and a quorum was present.



FOR Richard Saathoff, City Clerk