

**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, FEBRUARY 11, 2010**

**Minutes**

- I. **CALL TO ORDER** – The meeting was called to order by 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 Michele Kern, Vice Mayor David Shapera, Councilmember Roger Cleveland, Councilmember William Conner, Councilmember Roy Delgado, Councilmember Ben Lewis, Councilmember Adam Super.
- III. **CONSENT AGENDA**

Mayor Kern removed Consent Agenda item number two (2) so that it could be voted upon separately on the Regular Agenda.

1. **Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, January 14, 2010.**
2. Consideration and action approving the Minutes of the Work Session Meeting held Thursday, January 28, 2010.
3. **Consideration and action to amend the FY 2009/10 contract between the City of El Mirage and the RPTA (Regional Public Transportation Authority). The amendment adds Section 18: Employment of Aliens on Public Works Projects, Section 19: E-verify, and Section 20: Legal Compliance and replaces and supersedes an existing section that stipulates the amount of eligible reimbursement funds available in FY 2009/10 contract term.**

Councilmember Delgado made a motion to approve Consent Agenda items (1) and (3); seconded by Councilmember Super.

VOTE:   Yea:     Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
          Nay:     None  
          Motion: Carried

#### **IV. EXECUTIVE SESSION**

- 4. Council will vote to consider convening in executive session to discuss personnel matters and to receive legal advice from the City's attorneys regarding such matters, in accordance with A.R.S. §38-431/01(A)(1) and (A)(3). No action shall be taken by Council in executive session on any matter discussed. The two items that may be discussed by Council in executive session are:**
  - a. Possible reappointment of James Mapp to the position of Presiding Judge of the El Mirage Municipal Court and salary, if reappointed.**
  - b. Consideration of investigative report regarding allegations that Councilmember Roy Delgado violated provisions of the City Council Code of Ethics and possible actions, if any, based on the results of the investigative report.**

Councilmember Conner made a motion to convene into executive session at 6:04 p.m. to discuss personnel matters and to receive legal advice from the City's attorneys regarding such matters; seconded by Councilmember Super.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

#### **V. REGULAR AGENDA**

- 2. Consideration and action approving the Minutes of the Work Session Meeting held Thursday, January 28, 2010.**

Councilmember Super made a motion to approve the January 28, 2010 Work Session Minutes; seconded by Councilmember Lewis.

VOTE: Yea: Cleveland, Kern, Lewis, Shapera, Super  
Nay: None  
Abstain: Conner, Delgado  
Motion: Carried

- A. Public Hearing to receive citizen comments regarding a request for a liquor license from Remon Mansour, R & G Mini Mart, 12239 NW Grand Avenue.**

Mayor Kern opened the public hearing.

No comments were received.

Mayor Kern closed the public hearing.

**B. Consideration and action regarding making a recommendation to the Arizona Department of Liquor Licenses & Control on the request from Remon Mansour, R & G Mini Mart, 12239 NW Grand Avenue.**

Councilmember Delgado made a motion to approve the request for a liquor license from Remon Mansour, R& G Mini Mart, 12239 NW Grand Ave; seconded by Councilmember Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

**C. Consideration and action to appoint to the City of El Mirage's Planning & Zoning Commission: Mary Koestner to the unexpired term expiring on June 30, 2010 and Beth Simek to the unexpired term expiring June 30, 2011, as per the recommendation of the Commission Review Board.**

Councilmember Super made a motion to suspend the rule stating that the applicant must be present to be appointed to the Planning & Zoning Commission; seconded by Vice Mayor Shapera.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

Councilmember Super made a motion to appoint Mary Koestner and Beth Simek to the Planning & Zoning Commission; seconded by Vice Mayor Shapera.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

**D. Consideration and action regarding the reappointment of James Mapp to a second two-year term based upon the findings and recommendation of the Judicial Selection Advisory Review Board.**

Vice Mayor Shapera made a motion to approve the reappointment of Judge James Mapp to a second two-year term; seconded by Councilmember Cleveland.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

**E. Consideration and action approving Ordinance O10-01-01, amending the Code of the City of El Mirage, Sections 154.128 to 154.130 on Sign Regulations.**

Vice Mayor Shapera made a motion to approve O10-01-01 with the deletion of subsection (f) under Section 154.130(B)(14) Political signs; seconded by Councilmember Delgado.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

**F. Consideration and action adopting Ordinance O10-02-05, approving the adoption of the first annual supplement to the City's Code.**

Councilmember Delgado made a motion to approve Ordinance O10-02-05 with an emergency clause; seconded by Vice Mayor Shapera.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

**G. Public Hearing on proposed Ordinance O10-02-03, amending the Code of the City of El Mirage Sections 154.052(A)(2) and 154.067(C) to add "Boarding of Horses; 1 acre lot minimum; not more than 2 per acre, to a maximum of 5 horses" as a conditionally permitted use in the R-43 district.**

Mayor Kern opened the public hearing.

Community Development Director George Flores gave a brief overview of the item.

Donna Spritzer – 10811 N. 125<sup>th</sup> Ave.

Ms. Spritzer stated that she owns approximately five acres in the Dysart Ranchettes which was purchased in 1997 with the intent to build and operate a horse boarding facility for performance and retired performance horses with special needs. Ms. Spritzer urged the Council to allow 2 ½ horses per acre and not set a maximum.

Caroline Wells – 12901 W. Desert Cove Rd.

Ms. Wells stated that she was on the Planning & Zoning Commission at the time when the zoning was changed from R-1 to R-43 and it was guaranteed that there was going to be a continued use and that boarding

horses would be a permitted use. Ms. Wells recommended that the Council allow boarding of horses as a permitted use in R-43 with no maximum number of horses.

Mayor Kern closed the public hearing.

- H. Consideration and action approving Ordinance O10-02-03, amending the Code of the City of El Mirage Sections 154.052(A)(2) and 154.067(C) to add “Boarding of Horses; 1 acre lot minimum; not more than 2 per acre, to a maximum of 5 horses” as a conditionally permitted use in the R-43 district.**

Discussion ensued between Council and staff regarding Ordinance O10-02-03.

Councilmember Super made a motion to enact an enforcement moratorium on the boarding of horses within the City of El Mirage for a period of sixty days and that Ordinance O10-02-03 be brought back before Council for action at the first regularly scheduled meeting in April (April 8<sup>th</sup>); seconded by Councilmember Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

- I. Public Hearing on proposed Ordinance O10-02-04, amending the Code of the City of El Mirage to add section 154.089 establishing an Artist Live/Work Overlay District downtown.**

Mayor Kern opened the public hearing.

Community Development Director George Flores gave a brief overview of the proposed Artist Live/Work overlay district.

Discussion ensued between staff and Council regarding the Artist Live/Work Overlay District.

Mayor Kern closed the public hearing.

- J. Consideration and action approving Ordinance O10-02-04, amending the Code of the City of El Mirage to add section 154.089 establishing an Artist Live/Work Overlay District downtown.**

Councilmember Super made a motion to approve Ordinance O10-02-04; seconded by Councilmember Conner.

VOTE: Yea: Cleveland, Conner, Kern, Lewis, Super

Nay: Delgado, Shapera  
Motion: Carried

**K. Consideration of investigative report regarding allegations that Councilmember Roy Delgado violated provisions of the City Council Code of Ethics and possible actions, if any, based on the results of the investigative report.**

Councilmember Super made a motion to waive the attorney-client privilege regarding the investigative report; seconded by Councilmember Conner.

VOTE: Yea: Cleveland, Conner, Delgado, Kern, Lewis, Shapera, Super  
Nay: None  
Motion: Carried

Mr. David Pennartz with the Gus Rosenfeld law firm gave an overview of the investigation, reported on his findings and gave his recommendations based on his investigation.

Discussion ensued between Council regarding the investigation.

Vice Mayor Shapera made a motion to dismiss all allegations against Councilmember Roy Delgado; seconded by Councilmember Lewis.

VOTE: Yea: Delgado, Kern, Lewis, Shapera  
Nay: Cleveland, Conner, Super  
Motion: Carried

**L. Consideration and action approving Resolution R10-02-04, Supporting and urging the inclusion of noise as a major factor in the Environmental Impact Statement Analysis of the F-35 Joint Striker being based at Luke Air Force Base and that the environmental and operational factors be given equal weight in the consideration of basing the F-35 at Luke AFB.**

Councilmember Conner made a motion to approve Resolution R10-02-04; seconded by Councilmember Cleveland.

VOTE: Yea: Cleveland, Conner, Kern, Lewis, Super  
Nay: Delgado, Shapera  
Motion: Carried

Joe Ramirez – 12902 W. Peoria Ave.

Mr. Ramirez said that he believes that the Council is making a mistake pursuing the Luke AFB F-35 issue. Mr. Ramirez thought that the public

forums were misleading and that the City of El Mirage is isolating itself from other west valley communities.

## **VI. MAYOR'S COMMENTS and COUNCIL SUMMARY OF CURRENT EVENTS**

Vice Mayor Shapera stated that he had the opportunity to attend the Surprise Chamber of Commerce function in which El Mirage resident, Mr. Mike Humes, was awarded a plaque for his contributions to the community for his help with the little league and other programs for the youth.

Councilmember Delgado stated that he attended a meeting last week at the Wigwam regarding State and County ordinances for single family homes in the 65 db level noise zone.

Councilmember Conner stated that he attended a Tucson Forward meeting last night in Tucson at which he shared his knowledge of the EIS process relative to the F-35 mission. The group is encountering the same problems with public disclosure from the Air Force that people here are encountering.

Councilmember Conner said that he was disappointed with the results of the ethics investigation and that if he is going to spend a lot of time away from his family, he has to be in an environment where either he is making progress or supports the equal application and rule of the law.

Councilmember Conner stated that it has been the greatest privilege in his life to serve on this Council but at this time, due to family concerns and the necessity to further focus his efforts on opposing the F-35, Councilman Conner announced his resignation from the City Council.

Mayor Kern stated that she has met with numerous representatives from the State and Luke AFB and they all understand and respect the situation that the City of El Mirage is in regarding the possible future F-35 mission at Luke AFB and the possible impacts it may have on the City.

Mayor Kern said that it is necessary to understand how the new possible mission is going to impact the city so that the city can end up with an environment that is conducive to live in.

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

City Manager BJ Cornwall said that Saturday, February 20<sup>th</sup> is the city community picnic at Gateway Park. There will be food and live entertainment. The new Labrador Police dog, Daisy, will be present at the community picnic.

The 2010 Census is right around the corner and everyone is urged to complete their surveys which should be mailed by the end of February or early March.

**VIII. CALL TO THE PUBLIC**

No comments were received.

**IX. ADJOURNMENT**

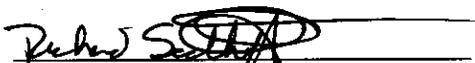
Mayor Kern adjourned the meeting at 10:01 p.m.

  
Michele Kern, 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 February 11, 2010 and a quorum was present.

  
Richard Saathoff, City Clerk