

**REGULAR MEETING OF THE COMMON COUNCIL  
OF THE CITY OF EL MIRAGE  
EL MIRAGE MUNICIPAL COURT/COUNCIL CHAMBERS  
14010 N. EL MIRAGE ROAD  
6:00 P.M., MONDAY, AUGUST 30, 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: Mayor Michele Kern, Vice Mayor David Shapera, Councilmember Roger Cleveland, Councilmember Roy Delgado, Councilmember Ben Lewis, and Councilmember Adam Super.

III. **PROCLAMATION**

1. Proclaiming the Fourth Monday of September 2010 as Family Day in the City of El Mirage.

Mayor Kern so proclaimed the Fourth Monday of September 2010 as Family Day in the City of El Mirage.

IV. **CONSENT AGENDA**

2. Consideration and action approving the Minutes of the Regular Council Meeting held Thursday, July 8, 2010.

3. Consideration and action approving the Minutes of the Special Council Meeting held Thursday, July 22, 2010.

4. Consideration and action to award a contract for the purchase of a replacement 45hp KTurbo aeration blower at the Water Reclamation Plant to Saddleback Environments Equipment in the amount of \$55,045.00.

5. Consideration and action to authorize the purchase of 5,508 acre feet of Central Arizona Project Water (CAP) Excess water for storage in the Agua Fria, Hieroglyphic Mountain and Tonopah Desert Recharge facilities in calendar year 2011.

6. Consideration and action to award a contract to Mueller Service Company, under the City of Phoenix Contract #P-08695-09, to perform fire hydrant maintenance and refinishing throughout the City's water distribution system in an amount not to exceed \$50,000.00

7. Consideration and action to approve Resolution R10-08-22, for a contract between the State of Arizona Department of Commerce and the City of El Mirage for the use of ARRA stimulus funds for energy efficiency projects.
8. Consideration and action to approve Resolution R10-08-23, for an Intergovernmental Agreement between the State of Arizona Department of Transportation (ADOT) and the City of El Mirage for the use of ARRA 2009 stimulus funds for the El Mirage Road, Olive Avenue to Cactus Road, micro-seal application and restriping project, and for ADOT to manage said project.
9. Consideration and action to accept a proposal from Kennedy Partners to apply for APS incentives on behalf of the City for establishing terms of a future Power Purchase Agreement including future construction of solar photovoltaic power generation at City facilities.
10. Consideration and action to award a contract for the purchase of replacement water meters as part of the annual meter change out program to HD Supply Water Works in the amount of \$225,000.00.
11. Consideration and action approving the purchase of real property for purpose of constructing a well.

Mayor Kern removed consent items #6 and #10; and moved them to the regular agenda to be voted on separately.

Councilor Delgado made a motion to approve Consent Agenda items: #2, #3, #4, #5, #7, #8, #9 and #11; seconded by Councilor Super.

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

## V. REGULAR AGENDA

6. Consideration and action to award a contract to Mueller Service Company, under the City of Phoenix Contract #P-08695-09, to perform fire hydrant maintenance and refinishing throughout the City's water distribution system in an amount not to exceed \$50,000.00.

Vice Mayor Shapera reported in other communities, the fire department performs this maintenance. He inquired as to whether or not the Fire Department could perform this maintenance at a cost savings to the City; how often are the hydrants inspected; and if there was any insurance rating regulations?

PW Director Lance Calvert reported that this is sometimes performed by the fire department in other communities. He reported that flushing of the hydrants is only a small portion of the contract. Painting, maintenance and flow testing is also done at this time. The current program calls for a

bi-annual inspection to be performed, about ½ of the hydrants were done last year. This is paid by the enterprise fund, so there would be no savings to the General Fund.

Mayor Kern reported that at one time the fire department did perform the inspection but they had difficulty in completing the inspections in a timely manner and still answer emergency calls.

Lana Mook reported that most of her concerns had been answered.

Councilor Super made a motion to approve as presented and to direct staff to perform a feasibility study to see if the fire department could do some of the work, seconded by Councilor Shapera.

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

10. Consideration and action to award a contract for the purchase of replacement water meters as part of the annual meter change out program to HD Supply Water Works in the amount of \$225,000.00.

Vice Mayor Shapera inquired as to whether or not this is needed to done now, given the state of the economy.

PW Director Calvert reported that is a critical time for this meter change out. The meters, as they age begin to slow down and not provide accurate readings which the billing department relies on to bill and collect all the revenue for the water fund. This is also being paid for by the enterprise fund so there would be no savings to the General Fund.

Mayor Kern reported that when the last water rate study was completed, the firm performing the study was very critical of the City for not having a meter change out program in place.

Councilor Delgado asked if the City maintained an inventory of meters.

Calvert reported that City maintains a very limited inventory but there is a constant supply of meters available.

Councilor Super made a motion to approve as presented; seconded by Councilor Cleveland.

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

- A. Consideration and action adopting Ordinance O10-08-12, amending the City Code §33.40, regarding the uses of the Court Enhancement and Security fee.

Councilor Super made a motion to approve Ordinance O10-08-12 as presented; seconded by Councilor Delgado.

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

Councilor Super made a motion to adjourn into executive session for the purpose of receiving legal advice; seconded by Councilor Cleveland.

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

The meeting adjourned into executive session at 6:30.

The meeting reconvened at 7:01.

- B. Discussion and action to merge the Community Service and Economic Development with the goal to trim personnel.

Attorney Burr Shields reported that both agenda items B and D, are personnel related items and according to the City Code §31.20E, all personnel related items and decisions are strictly under the City Manager's authority. The Council may direct and/or recommend their wishes for personnel items but the final decision is the City Manager's.

Vice Mayor Shapera stated that his goal is similar to other communities that have combined departments and reduce personnel to save money. He is asking the Council to direct the City Manager to merge the departments to balance the budget.

City Manager Cornwall reported that he did look at merging the department and decided that it wasn't in the City's best interest.

City Attorney Flaaen reported that doesn't need to be any formal action taken at this time, the City Manager can be directed to provide additional information regarding the two departments.

The City Manager is hereby directed to provide the additional information at the September 9<sup>th</sup> Council meeting.

- C. Request a presentation by staff and update of Fire House #2. Discussion and action on the construction of the new firehouse.

Vice Mayor Shapera inquired as to the status of the new firehouse.

PW Director Calvert reported the project is moving along nicely and we should be able to go out for bids the end of September.

Mayor Kern voiced her concerns regarding the cost of staffing and the operational costs of operating the new firehouse.

Calvert is hereby directed to provide a project update at the October 14<sup>th</sup> Council meeting.

- D. Discussion and action to rescind the City Manager's decision to lay-off six firefighters.

Attorney Burr Shields reported that both agenda items B and D, are personnel related items and according to the City Code §31.20E, all personnel related items and decisions are strictly under the City Manager's authority. The Council may direct and/or recommend their wishes for personnel items but the final decision is the City Manager's.

Vice Mayor Shapera reported that he felt the City needed the six (6) laid-off firefighters back; the union had agreed to the contract changes after the deadline; and his goal is to have the firefighters reinstated and the contract be signed.

Tim Hill, Dan Reilly, Veronica McPhetres, Jay Kleiner, Justice Spaeth, Mike Fusco, Thomas Jury, and Laurie Carnal spoke in favor of bringing back the firefighters and requested that the City Manager be directed to do so.

Mayor Kern reported the SAFER grant is considerable more expensive than the amount included in the budget. Fire safety is a very important issue and politics shouldn't be involved. The declining population and the declining property values affect the amount of money available for public safety, and to be still able to provide all the services requested by the residents.

Shapera stated that if the firefighters has signed the agreement when presented we wouldn't be discussing this now, the Fire Department is a cost but if is needed cost, doesn't want to return federal monies (current or future), wants the firefighters hired, the contract signed and discussion started regarding possible further cost savings.

Vice Mayor Shapera made a motion to direct the City Manager to rehire the laid-off firefighters with no penalty, to sign the contract and hold discussions regarding future cost savings options; seconded by Councilor Delgado.

Councilor Super reiterated that as per the City's Attorney, the Council has no authority to override the City Manager's decision regarding personnel, the City Council's Ethics Policy prevents the Council involvement is personnel issues; and the response time for 6 of the last 8 months had gotten worse since the six (6) new firefighters were hired.

Shapera believes the Council has the power to direct the City Manager.

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

Attorney Shields inquired about the contract to be signed.

Shapera stated the contract was the one agreed to after the deadline and that City Attorney Flaaen knew which contract he was referencing.

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

Councilor Delgado reported on his attendance at the Arizona League of Cities and Towns Annual Conference.

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

The City Manager had nothing further to report.

**VIII. CALL TO THE PUBLIC**

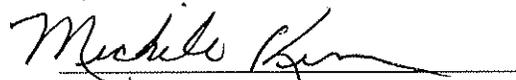
There were no further comments from the public.

**IX. EXECUTIVE SESSION**

Consideration and possible action to vote to convene in executive session for the purpose of receiving legal advice from the City's attorney and consider and provide direction regarding possible negotiations to avoid or resolve litigation. A.R.S. §38-431.03(A)(3) and (4). Previously held.

**X. ADJOURNMENT**

Mayor Kern adjourned the meeting at 8:02 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 August 30, 2010 and a quorum was present.

  
Richard Saathoff, City Clerk