

DRAFT

**REGULAR MEETING OF THE COMMON COUNCIL
OF THE CITY OF EL MIRAGE
EL MIRAGE CITY COUNCIL CHAMBERS
10000 N. EL MIRAGE ROAD
6:00 PM -TUESDAY, APRIL 6, 2021**

Minutes

1. ROLL CALL

Present: Mayor Alexis Hermosillo; Vice Mayor Monica Dorsey; Councilmember Roy Delgado; Councilmember Anita Norton; Councilmember Mike Hutchinson; Councilmember David Shapera; Councilmember Donna Winston

2. CALL TO ORDER - The meeting was held online and publicly; called to order at 6:00 pm.

Pledge of Allegiance
Moment of Silence

3. CALL TO THE PUBLIC

Citizens desiring to speak on any issue within the jurisdiction of the public body may do so at this time. Comments shall be limited to three (3) minutes per person and shall be addressed to the City Council as a whole. At the conclusion of the Call to the Public, individual City Council Members may (1) respond to criticism made by those who have spoken, (2) direct staff to review or follow up on the matter, and/or (3) direct that the matter be put on a future agenda.

There were no public comments received.

4. CONSENT AGENDA

All items listed under the Consent Agenda will be voted on with one motion. If discussion is desired regarding any Consent Agenda Item, that item will be removed from the Consent Agenda and voted on separately.

1. Consideration and action to approve the minutes of the Regular Council meeting held Tuesday, March 16, 2021. (City Clerk)
2. Consideration and action to amend the Intergovernmental Agreement (IGA) between Maricopa County Library District and the City of El Mirage to extend the term of the IGA for an additional five (5) years and to establish reimbursement amounts for the Programming Room construction work the City shall perform at the premises. (Community Development)
3. Consideration and action to authorize the purchase of PD Interview Rooms camera system at a total cost of \$82,182.84 with Year 1 cost of \$20,516.64 from Axon Enterprise, Inc. under a Sole Source Memo with authorization for Finance to make any necessary budget transfers. (Police Department)

4. Consideration and action to authorize the purchase, under GOHS Grant 2021-207-046, of one unmarked and upfitted Dodge Durango Police SUV, to be used as a DUI vehicle, from Courtesy Auto of Mesa at a cost of \$56,723.36 under State Contract #CTR046940. (Police Department)
5. Consideration and action to accept \$3,000 from the Governor's Office on Highway Safety (GOHS) for seat belt enforcement for the Click It or Ticket Campaign and allow the finance department to make the necessary budget adjustments. (Grants/Police)
6. Consideration and action to request, and accept if awarded, a public safety grant from the Firehouse Subs grant program in an approximate amount of \$27,000 for pole security cameras and video servers with storage and authorize Finance to make necessary budget transfers. (Grants/Police)
7. Consideration and action to approve Resolution R21-04-09 adopting the City of El Mirage Classification and Compensation Structure, effective July 1, 2021.

Vice Mayor Dorcey moved to approve items 1-7 on the Consent Agenda as presented; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

8. Consideration and action to approve Resolution R21-04-10 adopting an increase to the Elected Officials salaries, effective upon the assumption of duties of the officers elected at the 2022 General Election.

This item was pulled from the consent agenda and considered as Regular Agenda Item 5.1A.

Mayor Hermosillo stated removal of this item was to honor the process and have a conversation as a complete Council. City Manager Dyches reported City employee roles for inclusion in the Class and Compensation Study were recently discussed with Mayor and Council; Council agreed that Mayor and Council roles would be included in the study. **Councilmember Shapera** stated the City needed to have a third party professional study to ensure employees and Council were paid fairly, attracted the best candidates, and provided comparisons with other cities. **Councilmember Norton** asked when the last Council pay raise occurred and City Clerk Antes responded in 2006. Council expressed concerns regarding the proposed Council wage increases and discussion was held to see if a referendum would be an option moving forward.

Mayor Hermosillo requested a motion to approve regular agenda item 5.1A; item failed for lack of motion.

5. **REGULAR AGENDA**

1. A Public Hearing, closure of Public Hearing followed by consideration and action to approve a Conditional Use Permit for an Open Air Market Use located at 12420 W. Thunderbird Road, El Mirage, Arizona 85335, submitted by West Valley Market Place. (Community Development)

Mayor Hermosillo opened the Public Hearing.

Planner/GIS Jose Macias presented a Conditional Use Permit (CUP) request for an Open Air Market to be located at 12420 W. Thunderbird Road. The zoning is Urban Corridor (UC) with a land use of Retail Commercial under the 2020 General Plan area of The Neighborhoods. There were no public comments received. Macias reviewed photos of the site plan and layout examples to include parking. City staff reviewed the application and has provided stipulations for the applicant to consent to in a March 2, 2021, memorandum. No expiration date of the CUP is being proposed, however, failure to meet and maintain these stipulations will result in revoking the CUP. The Planning and Zoning

Commission recommended approval of the application with a 3-1 vote at the March 9, 2021, Public Meeting. The Commission Member who voted nay had concerns with debris, graffiti at the site, and limited parking spaces.

Vice Mayor Dorcey clarified it was actually a Farmers Market and recommended coordination with other similar events within the surrounding areas adding the Produce on Wheels Without Waste (P.O.W.W.O.W.) was also another avenue for communities to obtain fresh fruits and vegetables. City Manager Dyches acknowledged P.O.W.W.O.W. and stated this was a monthly service open to anyone and the cost was \$12 for up to 70lbs of fresh produce. Applicant Rose Galope/Manager West Valley Marketplace stated items being sold at the proposed Farmers Market would be organic vegetables in addition to taking into consideration product requests within the Community.

Councilmember Hutchinson asked why the market was not being held inside the large building as it appeared to be vacant. Ms. Galope responded improvements, to include air conditioning, were needed inside the building at considerable expense. She added the plan was to start with the market outside by cleaning up the debris and graffiti and encouraging vendors, then later, once sufficient funds were available, repair the inside of the building where the event could be moved inside. **Councilmembers Norton** and **Winston** clarified with Ms. Galope the vendor types, insurance liabilities, and knowledge basis for operating an open (farmers) market.

Hearing no comments from the public, Mayor Hermosillo closed the public hearing.

Councilmembers Shapera and Delgado identified key concerns from past experiences at this location which resulted in ticketing issues, lawsuits, staff time, and lack of area maintenance. Additional concerns addressed included the early start time and potential for complaints over the noise disturbance to neighboring residents, vendors being in competition with City brick-and-mortar stores, and the summer heat.

(Item failed for lack of motion)

2. Consideration and action to approve a proposed Site Plan for a Day-Care Center Use located at 12800 W. Varney Road, El Mirage, Arizona 85335, submitted by Catholic Charities Westside Head Start. (Community Development)

Planner/GIS Jose Macias presented this item stating this is a site plan approval for Catholic Charities Westside Head Start Program located on a seventy acre lot at 12800 W. Varney Road, El Mirage, Arizona 85335. Mr. Macias reviewed photos, building elevations, building color schemes, and the site plan which is zoned Mixed Urban (MU) and is within 70-75 LDN as per ARS 28-8481. City staff has reviewed the application and has stipulated that the applicant shall address the Technical Advisory Committee (TAC) review comments stated in the March 2, 2021, memorandum with the construction and civil plan submittals. One public comment was received regarding the height of the proposed building (single story, 16 feet). City staff had no objections or concerns and the Planning and Zoning Commission recommended approval of the site plan application with a 3-1 vote at the March 9, 2021, Public Meeting. The Nay vote from a Commission Member was for the concern regarding the use of vacant land and the decrease in school age children enrollment.

Councilmember Norton asked how many children would be attending the Head Start program, what days/hours, number of staff and if meals would be provided. Executive Director Yati Dua/Catholic Charities Westside responded that fifty-nine (59) children between three and five years old would be attending Monday through Friday from 8:00 am to 2:30 pm daily. Mr. Dua added there would be three classrooms and nine teachers to include an on-site director; programming manager and area manager; total twelve staff members. He also added meals would be provided (breakfast and lunch). **Councilmember Shapera** asked how many children would be from within the City of El Mirage. Mr. Dua replied all recruiting would be from within the City by working with the City's school district and from the Head Start program, children would transfer directly to the local

kindergarten. **Councilmember Shapera** also expressed his concerns for a federally funded program, such as this project, and land that could be better utilized for sporting and community activities for the residents. Mr. Dua responded the Head Start federally funded program was a historically stable program with a budget of eleven billion dollars. The program has grown over time resulting in expansion throughout the country to provide for the ever-growing need for early childhood development. **Councilmember Shapera** asked why the classrooms could not be provided in the same building as the school itself, rather than a separate building and what happens if the funding stops. Planning Administrator Kevin Shipman with the Dysart Unified School District responded the district expends no funds for this facility, and there's no risk if the facility were to be vacated; the District would have an improved property at the end of the lease. The District provides education services to preschool age students, some of those are special needs, and the Head Start program provides a niche that the District might not be able to fill otherwise with its limited resources. **Mayor Hermosillo, Councilmembers Norton and Winston** agreed the value in early education was paramount. **Councilmembers Shapera and Hutchinson** asked if other locations could be utilized for the Head Start program such as churches or other existing schools. **Mayor Hermosillo** stated other locations within the City could be reviewed for potential recreational areas and believed the Head Start location needed to be near a school. **Vice Mayor Dorcey** agreed with **Mayor Hermosillo** and added local churches did not have the facility space or resources for the Head Start program. Mr. Shipman stated six schools were within City limits and close to full and to be able to house the Head Start program both construction and modifications would be required to house those types of students. Project Manager with Architectural Resource Team Terri Soliman added the Head Start program required special parking facility requirements, and in addition, classes are offered to parents whose children attend the program. Ms. Soliman stated the result being multiple functions going on outside just the classroom areas and the need to ensure those extra parking facilities do not impact other students. **Councilmember Delgado** provided a history regarding the land and asked if neighboring properties were notified and was there a need for improvements on Varney Road to accommodate the proposed increase in traffic flow. Mr. Macias responded notification letters were sent to residents living within twenty feet of the property as required by law. Mr. Macias further added the application was reviewed by City staff and comments provided through a memorandum. Ms. Soliman stated a traffic study was completed with results stating there would be no impact to the intersections. **Councilmember Shapera** stated Head Start was a great program, his concerns were primarily with the location of this program.

Vice Mayor Dorcey moved to approve a proposed Site Plan for a Day-Care Center Use located at 12800 W. Varney Road, El Mirage; seconded by Councilmember Norton.

Vote: 4 - 3 Passed.

AYES - Mayor Hermosillo, Vice Mayor Dorcey, Councilmembers Norton, Winston

NAYS - Councilmembers Delgado, Hutchinson, Shapera

3. Consideration and action to approve a proposed Site Plan for an Exterior Yard Storage and Office Use located at 12402 W. Butler Drive, El Mirage, Arizona 85335, submitted by Harriem Trailer Storage, LLC. (Community Development)

Planner/GIS Jose Macias presented this item stating this is a site plan approval for Harriem Trailer Storage, LLC for an exterior storage yard and office use for storing and servicing trailers located at 12402 W. Butler Drive, El Mirage, Arizona 85335. Mr. Macias reviewed the site plan and landscape plan of the area which is zoned Employment/ Industrial (E/I) with a land use of commerce/industry park and is within 65-70 LDN as per ARS 28-8481. One public comment was received. City staff has no objections or concerns and has reviewed the application and stipulated that the applicant address the Technical Advisory Committee (TAC) review comments stated in the March 2, 2021, memorandum with the construction and civil plan submittals. The Planning and Zoning Commission recommended approval of the application with a 4-0 vote at the March 9, 2021, Public Meeting.

Councilmember Norton asked what types of trailers would be stored on the proposed site plan and is Butler Road able to handle the increase of heavy traffic. The applicant Mr. Jack Gilmore with Gilmore Planning & Landscape Architecture responded by providing a brief overview of the property acquisition and clean-up plans. The intended use is for truck trailer storage and limited maintenance, trailers are fifty-three feet in length and trucking companies will lease multiple spaces to store their over-the-road trailers for short term periods (up to ten days). City Engineer Jorge Gastelum addressed Council and explained Butler Road was being extended to Dyrsart Road and designed three to four years ago to accommodate heavy traffic weight. **Councilmember Shapera** asked if illumination stanchions would be installed and where were the dumpsters being placed. Mr. Gilmore responded both illumination and security cameras were not part of this phase, but would be installed at a later date and dumpsters had been placed opposite the guest parking (reviewed presentation map). **Councilmember Shapera** recommended a stipulation be added to require the installation of lighting and security cameras prior to approval of the site plan. **Councilmembers Winston and Norton** agreed with Councilmember Shapera's illumination and security camera recommendation.

Vice Mayor Dorcey moved to approve a proposed Site Plan for an Exterior Yard Storage and Office Use located at 12402 W. Butler Drive with the stipulation to include putting in lighting to meet code and security cameras; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

4. Consideration and action to approve Resolution R21-04-07 amending Chapter 97 (Recreational Marijuana), in Title IX (General Regulations) of the El Mirage City Code by adopting reasonable regulations to permit the operation of marijuana establishments and marijuana testing facilities pursuant to A.R.S. § 36-2857. (Community Development)

Attorney Christina Estes-Werther on behalf of City Attorney Justin Pierce presented to Council and stated the Resolution, Ordinance and corresponding zoning changes would be discussed during this Council meeting. Ms. Estes-Werther presented a background of Proposition 207 (Smart and Safe Act) which passed and became effective on November 30, 2020. She identified the definitions for marijuana establishments and testing facilities pursuant to Arizona Revised Statute (A.R.S.) §36-2850 (18) and A.R.S. §36-2850(21). In October 2020, prior to the State's adoption of Prop 207, Resolution R20-10-21 was adopted by City Council prohibiting consumption, sale, or distribution of marijuana on City property to include smoking of any marijuana products. Ms. Estes-Werther identified two items for possible changes, 1) Prohibits marijuana establishments except for a dual licensee (entity that holds a valid dispensary registration certificate and is in good standing with DHS); and has not forfeited or terminated the dispensary registration from DHS, and 2) prohibits a marijuana testing facility in the City. She identified the regulatory authority pursuant to A.R.S. §36-2857 for cities to include enacting reasonable zoning regulations limiting land usage for establishments and testing facilities to designated areas, limiting or prohibiting the number of establishments or testing facilities, regulations for time, place and manner of establishments or testing facility operations, public signage restrictions, and per State law the delivery of marijuana is not allowed and likely won't be for some time. Ms. Estes-Werther outlined City requirements pursuant to A.R.S. §36-2857 which refers to cities not being allowed to enact any ordinance, regulation or rule that is more restrictive than a comparable ordinance, regulation or rule that applies to dispensaries. She reviewed proposed revisions to Chapter 97 (Recreational Marijuana), by allowing marijuana establishments and testing facilities to operate within the City subject to certain conditions, and protect public health and safety through reasonable regulations. These changes would strike the current prohibition on marijuana establishments and testing facilities and permit these entities to operate pursuant to reasonable regulations that compliment State law and DHS rules.

Councilmember Hutchinson asked if a business would be allowed under the new proposed code to hold a private event on site for marijuana consumption. Ms. Estes-Werther responded that under the

proposed resolution consumption is limited to retail sites only.

Vice Mayor Dorcey moved to approve Resolution R21-04-07 amending Chapter 97 (Recreational Marijuana), in Title IX (General Regulations) of the El Mirage City Code by adopting reasonable regulations to permit the operation of marijuana establishments and marijuana testing facilities pursuant to A.R.S. § 36-2857 including a minor wording correction in Section 97.04(B)(1) as presented; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

5. Consideration and action to approve Ordinance O21-04-04 amending Chapter 97 (Recreational Marijuana), in Title IX (General Regulations) of the El Mirage City Code by adopting reasonable regulations to permit the operation of marijuana establishments and marijuana testing facilities pursuant to A.R.S. § 36-2857. (Community Development)

City Clerk Sharon Antes stated with Council approval of Resolution R21-04-07, this ordinance by reference to the resolution can be published without the attachments, per State law, thereby saving substantial publishing costs.

Vice Mayor Dorcey moved to approve Ordinance O21-04-04 amending Chapter 97 (Recreational Marijuana), in title IX (General Regulations) of the El Mirage City Code by adopting reasonable regulations to permit the operation of marijuana establishments and marijuana testing facilities pursuant to A.R.S. § 36-2857; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

6. Consideration and action to approve Resolution R21-04-08 to adopt a newly created Chapter 154.091 Marijuana Regulations to the El Mirage, Arizona Zoning Code: Land Usage Volume 2 regulating marijuana operations, and declaring the Resolution and attached Exhibit "A" and Exhibit "B" as a public record. (Community Development)

Mayor Hermosillo opened the public hearing.

Planner/GIS Jose Macias presented stating this item is to incorporate zoning use changes to best align with the revised marijuana City code, and to follow up on the February 18, 2021, presentation by Ms. Estes-Werther where City Council gave City staff direction to amend Chapter 97. Mr. Macias identified proposed zoning changes and reviewed current zoning maps outlining the new map revisions pertaining to the regulation of marijuana operations.

Councilmember Norton asked why Rural Area (RA) was included as a conditional use when the only rural area as shown on the presented maps was the Dysart Ranchettes, which is a residential area. Mr. Macias responded City staff was directed by Council to include that revision.

Hearing no public comments, Mayor Hermosillo closed the public hearing.

Councilmember Shapera responded to Councilmember Norton's question and stated Council worked with City staff to include the RA for Conditional Use, several Dysart Ranchette residents have small businesses and Council thought it would be important to generate discussion; RA can be removed. **Councilmember Norton** expressed concerns with allowing marijuana cultivation within the Ranchettes which included security, smells and many families with young children.

Councilmembers Shapera and **Norton** agreed to taking out RA from a Conditional Use Permit. **Councilmember Hutchinson** stated direction was given to staff to treat cannabis based businesses no differently than other businesses. **Councilmember Hutchinson** added marijuana licenses were extremely expensive; if a resident of the Ranchettes wanted to invest and develop some acreage for

cultivation then Council needs to let them plead their case. **Councilmember Winston** asked where the City drew the line regarding treating businesses equally and referenced a car painting business can be toxic. **Councilmember Shapera** stated the Council-appointed committee would be considering all businesses and best practices.

Vice Mayor Dorcey moved to approve Resolution R21-04-08, to adopt a newly created Chapter 154.091 Marijuana Regulations to the El Mirage, Arizona Zoning Code: Land Usage Volume 2 regulating marijuana operations, and declaring the Resolution and attached Exhibit "A" and amend Exhibit "B" to eliminate RA from Conditional Use; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

7. Consideration and action to approve Ordinance O21-04-05 adopting a new chapter 154.091 Marijuana Regulations to the Zoning Code Usage Volume 2 and declaring a public record by reference in Resolution R21-04-08, including Exhibit A and B. (Community Development)

Planner/GIS Jose Macias stated with Council approval of Resolution R21-04-08, this ordinance by reference to the resolution can be published without the attachments, per State law, thereby saving substantial publishing costs.

Vice Mayor Dorcey moved to approve Ordinance O21-04-05 adopting a new chapter 154.091 Marijuana Regulations to the Zoning Code Usage Volume 2 and declaring a public record by reference in Resolution R21-04-08, including Exhibit A and B; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

8. Consideration and action to approve Resolution R21-04-11 adopting the Capital Improvements Plan (CIP) for fiscal years 2022 through 2026.

Financial Analyst Macy Walker reported on this action to adopt the CIP for fiscal years 2022 through 2026. She stated the overall CIP highlights are that it contains \$42,772,500 in proposed spending. She provided a CIP breakdown by department and identified adjustments to project costs to include vehicle replacement for the Police Department at an increase of \$11,000, and the City of El Mirage library remodel/relocation decreased by \$30,600. Upon Council approval capital and personnel will be added to the budget by Finance.

Vice Mayor Dorcey moved to approve Resolution R21-04-11 adopting the Capital Improvement Plan (CIP) for fiscal years 2022 through 2026; seconded by Councilmember Shapera.

Vote: 7 - 0 Passed - Unanimously

6. **CITY MANAGER'S COMMENTS & SUMMARY OF CURRENT EVENTS**

The City Council may not act upon any matter in the City Manager's summary but may have general comment or questions.

City Manager Dyches introduced Public Works Director Nick Russo to provide updates and notification on the Dysart Well repair to restore it to service, and water test results. Mr. Russo reported that the Dysart irrigation well casing failed in mid-March and the City hired a company to evaluate the issue resulting in a necessary and authorized purchase to restore services. Repairs for the well included removal of sand that had infiltrated the well, cleaning of the remaining casing, and installation of a submersible pump for future use; repairs are to be completed by the end of April 2021.

Mr. Russo also updated on the results of the Polyfluoroalkyl Substances (PFAS) chemical testing recently scheduled for all the wells. The results showed either no chemical detection or very far below the EPA advisory level. Testing is going to be scheduled for fiscal year 2022 and the City will continue to follow the EPA and counties lead on this issue.

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

The Mayor and City Council may not discuss or act upon any matter in the summary unless the specific matter is properly noticed for legal action.

Councilmember Hutchinson expressed his appreciation to the Police Department for their handling of a situation within his neighborhood.

Councilmember Norton expressed her appreciation for the City's "Recycle Right Wizard" program and feels it is very beneficial towards educating the community on recycling. She further added her appreciation to the Police Department for keeping the community safe and utilizing training programs to assist with dealing with adults and children with special needs. She closed by stating April is Sexual Assault Awareness Month and people can help prevent sexual violence by modeling and promoting healthy and positive relationships that are based on respect, safety, and equality.

Councilmember Shapera stated three councilmembers had toured the City of Tolleson's Court and dispatch center and recommends the remainder of council take a trip there. He further added he would be meeting with the Police department to review the fingerprint scanner and how it works.

Mayor Hermosillo recognized Vice Mayor Dorcey's recent birthday.

8. **ADJOURNMENT - The meeting was adjourned at 8:09 pm.**

Alexis A. Hermosillo, Mayor

ATTEST:

Sharon Antes, City Clerk

I hereby certify the aforementioned minutes are a true and accurate record of the Regular El Mirage City Council Meeting held on Tuesday, April 6, 2021, and a quorum was present.



Sharon Antes, City Clerk