

UTILITY COMMITTEE MINUTES

March 3, 2003

The Utility Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on March 3, 2003 at 3:34 p.m.

COMMITTEE PRESENT

Janie Thom, Chairman
Kyle Jones
Mike Whalen

COUNCIL PRESENT

None

OFFICERS PRESENT

Debbie Spinner
Paul Wenbert

1. Discuss and consider a request for water service outside of Mesa's corporate limits for Al Gerbens' property at the southeast corner of Redberry and 82nd Street.

Development Planning Analyst Beth Hughes-Ornelas and Deputy Building Safety Director Jeff Welker addressed the members of the Committee relative to this agenda item.

Ms. Hughes-Ornelas explained that the purpose of this item is to provide the Committee with staff's recommendation relative to a request from Al Gerbens, a property owner at the southeast corner of Redberry and 82nd Street, for water services to a new subdivision of land for residential development located outside of Mesa's corporate limits. She stated that in accordance with City Ordinance No. 3880, it is the recommendation of staff that Mr. Gerbens' request for service be denied. Ms. Hughes-Ornelas added that she would be happy to provide a more in-depth presentation on this issue if the members of the Committee so desire.

In response to a series of questions from Chairman Thom, Ms. Hughes-Ornelas clarified that the reason she is presenting this item to the Committee as opposed to a representative of the Utilities Division is that as part of her duties as a Development Planning Analyst, she works with new development on utility services and development standards which are brought to the Building Safety Division through the preliminary stages of zoning and construction. She added that property owners residing outside Mesa's corporate limits who request utility services from the City initially meet with her and she evaluates the applications on a case-by-case basis.

Ms. Hughes-Ornelas referred to the February 26, 2003 Utility Committee Report, copies of which were distributed to the members of the Committee, and provided a brief overview of the case. She also referred to maps reflecting the location of Mr. Gerbens' property and the existing City of Mesa Water Service Lines. (See Attachments 1 and 2) Ms. Hughes-Ornelas stated that Mr. Gerbens intends to subdivide his property into four residential lots; that the property is not

contiguous to Mesa's corporate limits and therefore annexation is not a possibility; that Ordinance No. 3880, which established the "Terms and Conditions for the Sale of Utilities," requires all commercial, industrial, multiple residential, subdivided residential and/or other comparable zoned parcels of real property located outside Mesa's corporate limits to be annexed into the City prior to connecting to and receiving water and/or wastewater service from the City; that Ordinance No. 3880 was enacted to "level the playing field" to ensure that development within Mesa's corporate limits does not have to compete at an economic disadvantage with similar developments located outside of the City limits, and that the City would lose potential revenue (impact fees, building construction fees, sales tax, right-of-way and utility construction fees) if a property owner develops outside Mesa's corporate limits.

Chairman Thom invited Mr. Gerbens to address the Committee.

Mr. Gerbens thanked Chairman Thom for the opportunity to address the members of the Committee and reported that a water supply system currently runs along the perimeter of his property line. He advised that ten years ago, the landowners in the Range Rider Water District installed the water lines, the associated pumps and storage tanks and noted that his share of the cost was approximately \$8,000. Mr. Gerbens noted that the City of Mesa subsequently acquired the water supply system and now provides water to several of the residents in the County Island. He also stated that he has been attempting to sell his property for the past 18 months, but commented that when potential buyers learn that City of Mesa water is unavailable, sales negotiations cease. Mr. Gerbens added that the City has agreed to install one water meter on his 5.3 acres of property, despite the fact he has requested individual meters for each of the four subdivided lots.

In response to a question from Committeemember Whalen, Mr. Gerbens clarified that although his property is not contiguous to the City limits, there is one parcel to the north that abuts Mesa's corporate limits. He stated that he would be willing to contact the property owner to determine if that individual would agree to annexation. Mr. Gerbens added that he would welcome annexation of his property by the City.

Discussion ensued relative to the fact that Ordinance No. 3880 does not provide for the waiver of various "one time fees" (impact fees, building construction fees, sales tax and right-of-way and utility construction fees) for the dedication of rights-of-way; that in accordance with Ordinance No. 3880, the City could provide water service to Mr. Gerbens' single five-acre parcel and a credit could be issued for property front footage fees on East Redberry and North 82nd Street, and the fact that when the property is subdivided into four lots, it must be annexed into the City and the credit would no longer apply.

Chairman Thom stated the opinion that there is a difference between subdividing Mr. Gerbens' property into four lots (which is not subject to State Real Estate Department regulations) and a homebuilder who purchases 150 acres for the purpose of developing a residential subdivision and is required to comply with State law.

Committeemember Jones commented that he would like to find a "common sense" approach to resolve the matter. He stated that Mr. Gerbens has an existing water line located along the perimeter of his property, and said that if the City can collect the various impact fees, Mr.

Gerbens' property is developed to City standards and annexation occurs in the future, then perhaps a balance can be achieved.

In response to Committeemember Jones' comments, Mr. Welker stated that the City's ability to enforce its development regulations in the County Islands is limited. He explained that in accordance with Ordinance No. 3880, staff has no authority to grant waivers or to exercise flexibility regarding these types of cases.

City Attorney Debbie Spinner concurred with Mr. Welker's comments. She stated that hypothetically, the City could enter into an agreement with a property owner (living outside of Mesa's corporate limits and seeking utility services) requiring the owner to comply with Mesa's design standards and to pay the impact fees upfront. She added that the City could elect not to provide water service until such time as all the fees were paid. She stressed that the enforcement of Mesa's design standards would be limited and that a possible remedy for noncompliance might be to shut off the water supply. Ms. Spinner added, however, that the Council would make the final decision as to whether the City would turn off a property owner's water service based on the contractual language.

Committeemember Whalen commented that prior to the members of the Committee proceeding with this case, he would prefer that Mr. Gerbens attempt to contact the adjacent property owner regarding possible annexation. He noted that Ordinance No. 3880 was created to ensure that Mesa's design standards are met, and stated the opinion that if an individual fails to meet those standards, shutting off a property owner's water is not a viable solution. Committeemember Whalen also said that although Mr. Gerbens' case appears to be an easy one to resolve due to the close proximity of the water lines to his property, if the members of the Committee do offer a remedy under Ordinance No. 3880, it is important that they do so in a defensible manner. He added that whether Ordinance No. 3880 is or is not in the best interest of the City will ultimately be determined by the full Council.

Committeemember Jones concurred with Committeemember Whalen's comments.

Mr. Welker stated that staff would be happy to assist Mr. Gerbens regarding the issue of annexation.

Committeemember Jones suggested that in cases such as this, where the potential annexation of an adjacent property may be appropriate, staff and/or the applicant thoroughly address the issue prior to bringing the matter before the Committee for consideration.

Chairman Thom expressed support for granting an exemption under Ordinance No. 3880 to Mr. Gerbens and outlined a series of reasons for her position. She stated that the property is not contiguous and cannot be annexed; that Mr. Gerbens spent over \$8,000 to install water lines to his property, and that in 1977, former Mayor Wayne Pomeroy signed a resolution whereby the City agreed to provide domestic water to customers in the Range Rider Improvement District through domestic water lines that would be installed. She stated the opinion that a decision on the part of the City to not provide water to the residents in the District would constitute a breach of the agreement.

It was moved by Chairman Thom to recommend to the Council that the request of Al Gerbens for water services to a new subdivision of land for residential development outside of Mesa's corporate limits, be approved.

Chairman Thom stated that the motion dies for lack of a second.

Committeemember Jones reiterated his previous comments and stated that he did not support the motion because he would prefer that Mr. Gerbens exhaust all efforts to achieve annexation prior to the Committee taking action on this matter. He added that if it is determined that annexation is not an option, he would be willing to revisit the issue and consider the possibility of granting an exemption at that time.

Committeemember Whalen concurred with Committeemember Jones' comments and encouraged Mr. Gerbens to remain patient throughout this process.

Chairman Thom thanked everyone for the presentation.

2. Discuss and consider authorizing the sale of Langley Ranch property.

Real Estate Services Director Doug Tessendorf addressed the Committee relative to this agenda item. He reported that in 1997, the City of Mesa purchased 623 acres of land (at the southeast corner of Queen Creek and Higley Road) in the Town of Gilbert for \$10.5 million through the use of City utility bonds; that the property was intended to be used as a recharge site for wastewater treated at the South Water Reclamation Plant at Greenfield and Germann Roads; that in 2001, the City sold a 155-acre parcel to Gilbert for \$2.5 million, but retained ownership of the 468-acre property known as Langley Ranch; that Langley Ranch was originally purchased for \$18,000 per acre, and that because the City has agreed to undertake a reclaimed water exchange with the Gila River Indian Community (GRIC), which eliminates the need for Mesa to keep Langley Ranch as a recharge facility, it is the recommendation of staff that the property be sold pending Council approval.

Mr. Tessendorf commented that staff initially discussed the possibility of selling Langley Ranch approximately two years ago and that subsequently, a team composed of staff members from various City departments was formed to determine a potential sales price for the property, as well as the manner in which the sale would take place (staff, auction, sealed bids). He advised that it is the consensus of the team that retaining the services of an experienced real estate broker would be the most effective method by which to ensure that the City of Mesa obtains the most benefit from the sale of the property. Mr. Tessendorf added that the sales price of Langley Ranch is expected to be in the \$37 to \$42 million range.

In response to a question from Committeemember Jones, Deputy City Manager Paul Wenbert clarified that all proceeds from the sale of Langley Ranch will be earmarked for current and future wastewater projects and will be used to cover a portion of Mesa's \$62 million share in the South Water Reclamation Plant construction costs.

Discussion ensued relative to the fact that although staff is currently using the services of a real estate broker for the sale of excess City properties, Mesa has never sold a property as large as Langley Ranch; that the complexity of the sales transaction requires the expertise of an

experienced broker, and that extending the escrow period to a maximum of 24 months will allow the buyer to complete the subdivision planning and engineering work without incurring substantial overhead or carrying costs.

Chairman Thom briefly discussed her familiarity with the real estate industry and urged staff to retain a broker who has expertise in large land sales in Maricopa County, provide a comparative market analysis, and assist the City in establishing the most beneficial sales price for Langley Ranch.

Further discussion ensued relative to the timing and pricing of the sale.

It was moved by Committeemember Jones, seconded by Committeemember Whalen, to recommend to the Council that staff's recommendation to proceed with the sale of Langley Ranch, be approved.

Carried unanimously.

Chairman Thom thanked Mr. Tessendorf for the presentation.

3. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 4:20 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Utility Committee meeting of the City of Mesa, Arizona, held on the 3rd day of March 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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Attachments