

TRANSPORTATION COMMITTEE MINUTES

July 8, 2004

The Transportation Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on July 8, 2004 at 9:54 a.m.

COMMITTEE PRESENT

COUNCIL PRESENT

OFFICERS PRESENT

Claudia Walters, Chairman
Kyle Jones
Mike Whalen

None

Mike Hutchinson

1. Discuss and consider possible changes to in-lieu street payment policy:

Deputy Building Safety Director Jeff Welker advised that approximately a year ago staff provided information to the Transportation Committee regarding the City's street payment policy in response to citizen comments and complaints. He explained that the *City Code* requires developers of new residential or commercial properties to provide certain minimum public improvements, but in certain instances these improvements are implemented at a later date, such as: if the development is located a substantial distance from existing improved streets, or if staff determines that the timing is inappropriate to improve existing substandard streets. Mr. Welker stated that the following alternatives were offered to developers:

- A payment to the City "in lieu" of constructing the public improvements. The City of Mesa would utilize the funds at a later date to pay for the improvements relative to that particular development.
- A "deferral" agreement to pay the City of Mesa at a future date when the public improvements are completed.

Mr. Welker reported that as a consequence of one developer refusing to sign a deferral agreement, a review by the City Attorney's Office determined that the agreement was unenforceable, and staff was advised to cease offering that option. He reported that citizens and developers expressed objections to the requirement for an "in lieu" payment due to concerns that the City would not implement the street improvements in the future.

Mr. Welker stated that as a result of staff's presentation to the Transportation Committee in 2003, the Committee requested that the City Attorney's Office further investigate the "deferral" agreement option to ascertain if a legally defensible format

could be developed. He added that the investigation by the City Attorney's Office affirmed the original opinion that a "deferral" agreement is not legally defensible, and noted that staff is proposing the following alternatives (as listed in the Council Report):

Alternative 1 - Maintain the alternative of payments in-lieu of constructing required public street improvements, when the City determines that said public improvements are not currently needed for the health, safety, and welfare of Mesa's citizens. This alternative affirms enforcement of existing development standards and alternatives as currently prescribed by Sections 9-6 and 9-8 of the *Mesa City Code*.

Alternative 2 - In addition to the recommendation contained in Alternative No. 1, amend Section 9-6-7(B) and 9-8-4(B) of the *Mesa City Code* to authorize exemptions for A) new single residence (detached) lots that are located within existing residential subdivisions where the present substandard street improvements were previously approved by a jurisdiction in conjunction with the original subdivision approval; B) new single residence (detached) lots located on existing unsubdivided land where said lots are (1) acre or less in size. All unsubdivided single residence (detached) lots greater than one (1) acre and all multi-family, retail, commercial, and industrial developments would continue to be required to comply with all the applicable regulations contained in Sections 9-6 and 9-8 of the *City Code* (including Alternative No. 1).

Discussion ensued relative to the fact that a subdivision's request for paved streets, curbs, gutters and sidewalks a number of years subsequent to being developed would be addressed by utilizing a Special Improvement District (SID); that the "scalped streets" program would not be appropriate for this project; and that establishment of a Special Improvement District requires approval by a majority (50+ percent) of the area residents.

City Engineer Keith Nath explained that the City finances Special Improvement Districts in the following manner: the City pays the up front design cost; the City sells the bonds or the bonds are sold by the contractor; the bond costs are assessed to each property owner based on a calculation of the property's front footage; and the property owners typically pay the assessment over a ten-year time period, or an owner has the option to pay cash immediately in order to preclude the placement of an assessment lien on the property.

Further discussion ensued relative to the fact that owners of residential properties who made an "in lieu" payment several years ago would not be entitled to a reimbursement if Alternative 2 is adopted; that changes to the *City Code* are not retroactive; that the number of properties affected by the *Code* change correlates to the availability of land; that staff receives weekly inquiries from developers and citizens interested in building in rural areas; and that the change will impact vacant lots in older County subdivisions that have been or will be annexed into the City.

In response to a question from Committeemember Whalen, Mr. Nath advised that the City performs routine street maintenance to address pothole and sinkhole issues. He explained that the support of a majority of the residents is required in order for the City to implement curb, gutter and sidewalk improvements, and that staff encourages the residents to establish a Special Improvement District to accomplish the improvements.

Additional discussion ensued regarding the fact that the Transportation Division has addressed dust issues on the majority of the City's streets; that a chip seal project is being considered to resolve dust problems in the Lehi area; and that subdivisions with dirt roads will be required to comply with Federal air quality mandates as a result of annexation into the City.

In response to Committeemember Jones' question regarding the City's success in collecting SID assessments from the minority of residents who expressed opposition to the improvements, Mr. Nath advised that the City has the legal right to auction the property if the owner fails to pay the assessment. He reported that property owners normally pay the assessment when informed of the nonpayment penalty, and that the City has never conducted an auction in order to collect the assessment.

Further discussion ensued relative to the fact that the non-residential properties will continue to be handled in the same manner; and that most redevelopment and infill projects occur in areas where street improvements have been completed, and any future improvements would be the responsibility of the City.

Chairman Walters stated that she was inclined to support Alternative 1, but she also understood the necessity of including Alternative 2; that in discussions with Councilmember Griswold, he presented a persuasive argument in support of Alternative 2; and that a Committee recommendation for Alternative 2 should include the requirement for a document or letter of understanding signed by the original property owner acknowledging that the City is not responsible for funding future street improvements.

In response to a question from Mr. Welker, Chairman Walters clarified that the acknowledgement by the original owner could be a signed notification form or a letter rather than a formal legal document; and that a signed copy should be maintained in City files to substantiate the agreement between the original owner and the City relative to future street improvements.

Mr. Welker stated that staff received direction from the City Attorney's Office that a formal lien for an assessment should be attached to the property in order to preclude a future owner or developer from being "blind sided" with unknown requirements.

Responding to a series of questions from Committeemember Whalen, Mr. Welker advised that the developer of large parcels in areas with "half streets" would be required to implement the street improvements; that the developer of a small parcel in an area of vacant land would not be required to install immediate improvements; that the City is responsible for the cost of widening intersections in areas where street improvements have been completed and previously assessed; and that staff utilizes the *2025 Transportation Plan* as a project evaluation guide.

Mr. Nath addressed Committeemember Whalen's concern relative to the redevelopment and possible widening of an intersection at a corner site formerly occupied by a gasoline station. He stated that that staff would determine the developer's obligation to install improvements or provide an "in lieu" payment. Mr. Nath explained that a determination that the developer has no financial obligation for the improvements would initiate staff action to prioritize the project by evaluating the need for the improvements and determining the availability of City funding for the project.

It was moved by Committeemember Whalen, seconded by Committeemember Jones, that Alternative 2, including an additional requirement for an acknowledgement or notification form signed by the original property owner, be moved forward for Council consideration with a recommendation for approval.

Chairman Walters clarified for the record that Alternative 2 encompasses the requirements of Alternative 1 and called for the vote.

Carried unanimously.

In response to a question from Mr. Welker, Chairman Walters stated that the Committee has provided direction to staff, and that the ordinance may be moved forward for Council consideration as outlined in the motion.

2. Adjournment.

Without objection, the Transportation Committee Meeting adjourned at 10:23 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Transportation Committee meeting of the City of Mesa, Arizona, held on the 8^h day of July 2004. 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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