

## UTILITY COMMITTEE MINUTES

January 4, 2007

The Utility Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on January 4, 2007 at 8:58 a.m.

### COMMITTEE PRESENT

Kyle Jones, Chairman  
Scott Somers  
Mike Whalen

### COUNCIL PRESENT

Rex Griswold

### STAFF PRESENT

Jack Friedline  
Debbie Spinner  
Paul Wenbert

1. Discuss and provide a recommendation to the City Council on the Electric Integrated Resource Plan.

Utilities Manager Dave Plumb explained that the City is required to submit an Electric Integrated Resource Plan to the Western Area Power Administration in accordance with the *Energy Policy Act* of 1992. (A copy of the plan is available for review in the City Clerk's Office) He stated that Utility Resources Director Frank McRae would present an overview of the 2007-2016 Integrated Resource Plan (IRP).

Mr. McRae displayed a PowerPoint presentation to provide information on the background and the planning process utilized to prepare the ten-year plan. (The presentation is available for review in the City Clerk's Office.) He highlighted the following requirements:

- Hold community meetings.
- Forecast, plan and acquire resources in a timely and efficient manner.
- Compare Demand Side Management (DSM) and Supply Side (S/S) Options.
- Select and acquire resource options based upon defined planning and selection criteria.

Mr. McRae stated that community meetings are held in order to solicit and receive input and feedback from the City's electric customers. He reported that at the first meeting on November 14, 2006, staff advised the customers of the analytical steps and processes utilized to develop the IRP and the alternatives that would be assessed and evaluated for inclusion in the plan. Mr. McRae said that the Utility Department's criteria to provide safe, reliable and economical electric utility services was emphasized. He advised that the preliminary plan was reviewed at the second community meeting held on December 5, 2006.

Mr. McRae highlighted two steps of the IRP process:

- Identify/assess the technical and economic feasibility of DSM and S/S resource options (which include retaining a consultant with expertise in customer use patterns in the central Arizona, metropolitan Phoenix and Tucson areas).
- Develop and apply resource-screening criteria and identify the “short list.”

Mr. McRae indicated that Federal regulations require Council approval of the “Demand Side Management” portion of the program. He explained that such regulations recognize that the Utilities Manager is capable and authorized to establish that the IRP meets the requirements for submission to the Western Area Power Administration. Mr. McRae advised that the information presented is also intended to update the Council regarding staff’s plans to re-initiate certain programs and expend funds in areas that have been unfunded for a long time. He noted that one of the criteria employed was that revenues generated by today’s customers should not be spent to benefit future customers. Mr. McRae also stated that another area addressed the effort to mitigate the inherent risks of volatile fuel prices and availability and volatile environmental costs. He added that there are risks associated with the acquisition of short and long-term supply contracts.

Mr. McRae reported that the area of heating, venting and air conditioning was identified as the best opportunity for Demand Side Management in the residential market. He noted that compact fluorescent lights provide immediate benefits. Mr. McRae commented that the Indian gaming compact has provided grant funding for a weatherization program for low-income customers. He also said that the forecasted annual expenditures and savings are listed on the “Proposed Demand Side Management Action Plan Summary” (See Attachment 1.).

In response to a question from Committeemember Somers regarding the availability of a budget payment plan, Mr. Plumb stated that although no one from Customer Service was present, he thought that the City does offer such a program. He also confirmed that customers on a budget plan tend to use more electricity.

Committeemember Somers commented that if the City does not currently utilize a budget payment plan, he would like to see one implemented. He added that it would be interesting to see how such a program impacts cumulative kilowatt savings.

Mr. McRae further spoke regarding staff’s proposal that the DSM Program costs be recovered via the Electric Energy Cost Adjustment Factor (EECAF) mechanism. He explained that many investor-owned utilities overseen by State regulatory commissions utilize a fuel cost adjustment mechanism to recover “ramp-up and ramp-down” costs.

Discussion ensued relative to the fact that the Arizona Electric Power Cooperative (AEP) contract expires in December 2008, which requires the City to acquire a new resource to replace this supply; that staff proposes to issue a Request for Proposals (RFP) to acquire resources to replace the AEP contract; that with regard to renewable resource portfolio standards, Mesa’s contractual rights to Federal hydropower resources accounts for 16 percent of its total peak demand resources and 19 percent of total annual energy requirements, thereby exceeding resource portfolio standard requirements that regulatory commissions are developing; that staff does not recommend a focused effort to acquire renewable resources

unless the prices of such options are comparable to more traditional resource options; that as part of the RFP process, staff would solicit offers from developers of solar wind, geothermal and other types of renewable resource options; and the amendment to the Public Utility Regulatory Policies Act of 1978 (PURPA), which requires certain utilities to consider whether or not to offer net metering (PURPA does not apply to the City of Mesa).

Mr. McRae also discussed staff's recommendation relative to distributed generation, which is to consider customer-owned distributed generation as more of a Supply Side resource rather than a Demand Side Management resource. He noted that staff would also develop a tariff that allows the City to recover the full cost of interconnecting the customers and providing services.

Additional discussion ensued regarding time differentiated pricing and advanced metering for commercial customers; the fact that a number of contracts expire in 2013 and there are long lead time resources that staff must acquire in the interim; and various elements of the three-year and five-year action plans (DSM and Supply Side).

Deputy City Manager Paul Wenbert advised that the City is facing a January 15, 2007 deadline from the Western Area Power Administration for the Council to adopt the IRP. He stated that staff proposes to include this item on the January 8, 2007 Regular Council meeting agenda.

It was moved by Committeemember Whalen, seconded by Chairman Jones, to recommend to the Council that the 2007-2016 Electric Integrated Resource Plan be approved.

Carried unanimously.

Chairman Jones thanked staff for the informative presentation.

2. Discuss and consider a request from Mr. Bill Grunow for water and wastewater service outside the City limits at 2822 North 80<sup>th</sup> Street.

Deputy City Manager Jack Friedline introduced Deputy Building Safety Director Tammy Albright and Water Division Director Bill Haney, who were prepared to address the Committee regarding this item. He also stated that the applicant, Bill Grunow, was present in the audience.

Chairman Jones stated that Mr. Grunow provided each Committeemember with a copy of a letter that briefly updates the status of his property since October 19, 2006 when his request was first presented to the Utility Committee for discussion and consideration. (See Attachment 2.)

Mr. Friedline reported that at the conclusion of the October 19<sup>th</sup> meeting, the Committee recommended that the case be tabled so that staff could work with Mr. Grunow in an effort to possibly reach a compromise in this regard. He explained that shortly thereafter, he and Development Project Coordinator Jim Law met with Mr. Grunow at his property and commented that during that visit, it became clear to him that that Oasis Street would eventually be an improved roadway. Mr. Friedline referred the Committee to a document entitled "Exhibit D," which reflects Mr. Grunow's property and the existing water lines in the area. (See Attachment 3.)

Mr. Friedline offered a brief analysis of Mesa's "Terms and Conditions for the Sale of Utilities" with regard to the typical requirements that must be met by an individual who resides outside Mesa's corporate limits and is requesting City of Mesa water or wastewater service (i.e., annexation into the City when possible, installation of water lines, sewer line extension and right-of-way requirements.) He stated that based on the Committee's direction at the October 19<sup>th</sup> meeting, as well as staff's ability (per Council direction) to consider extenuating circumstances and future consideration of other developments (in this case, the area north of Mr. Grunow's property), he is recommending Option 3 for the Committee's consideration.

Mr. Friedline highlighted the various development standards contained in Option 3 including, but not limited to:

1. The installation of an 8-inch water line across property frontage of North 80<sup>th</sup> Street (Not required on East Oasis Street). This would permit Mr. Grunow, under the presumption that he expressed to staff on October 19<sup>th</sup>, to divide his parcel into a northern and a southern part and also allow water service to the northern parcel.
2. Installation of wastewater line across property frontage of North 80<sup>th</sup> Street (Not required on East Oasis Street.)
3. Dedication of adjacent rights-of-way (25 feet along north property line for East Oasis Street.).
4. Construction of half street improvements adjacent to parcel's North 80<sup>th</sup> Street frontage. (Not required on East Oasis.)
5. Construction of onsite and offsite drainage requirements.
6. Compliance with Mesa's building setbacks and all other Code requirements.
7. Payment of all fees associated with water service, meter and sewer service, including water and wastewater impact fees.
8. Payment of Utility Service Agreement fee equal to all of the other City of Mesa Development Impact Fees for single-family residential properties.

Mr. Friedline commented that one-time fees, including impact fees and "Utility Service" Agreement Fees, would total approximately \$5,233. He added that the estimated cost for Mr. Grunow to bring utilities to his property would be \$105,000 (\$45,000 for the construction of half street improvements for 80<sup>th</sup> Street; \$30,000 each for the installation of water and sewer lines).

Mr. Friedline further indicated that regarding Mr. Grunow's desire to split his property into two parcels, it is the opinion of staff that if the right-of-way were dedicated on Oasis Street, as the properties to the north are developed, the City could require payment from the property owners for the pavement of the roadways. He added that the roads, which would be located in a rural setting similar to those in the Desert Uplands, could include minimal asphalt, but also provide circulation for emergency vehicles.

Discussion ensued relative to the fact that two days ago, staff e-mailed Mr. Grunow a copy of the final report for his review; that staff advised Mr. Friedline that Mr. Grunow has recently split his property into three parcels (one southern parcel and two northern parcels); that staff is concerned with providing water service to the parcel located in the northwest quadrant if, in fact, that is what Mr. Grunow is requesting; that providing such service would require the installation of a waterline on Oasis Street (on the frontage of the lot) and staff would be hesitant to develop a service line that would run through the property on the east and on to the northwest parcel;

and that the City may not be able to service the parcel with a sewer line on 80<sup>th</sup> Street and it may be necessary for Mr. Grunow to install a septic tank.

Mr. Friedline concluded his presentation by commenting that because Mr. Grunow has split his property into three parcels, Option 3 may no longer be a viable option. He suggested that staff continue to work with Mr. Grunow to consider other alternatives in this regard.

Mr. Grunow addressed the Committee and confirmed that he split the northern half of his property into two parcels and sold his home, which is located on the southern half of the property, to his sister. He stated that he does not intend to sell or develop the two northern parcels. He added that a garage is located on the northwest parcel 50 feet from the property line on Oasis Street and questioned how the proposed 25-foot right-of-way dedication would impact that structure.

Further discussion ensued relative to the fact that Mr. Grunow's lots currently meet County lot density requirements, but are not consistent with Mesa's General Plan.

Mr. Friedline clarified that with regard to the lot split, it is his understanding that Mr. Grunow requested City of Mesa water service in order to provide water to the "garage structure" that is located on the northwest parcel. He explained that he was informed by Mr. Grunow that the two-story structure could, in fact, be converted to a home and he stated the opinion that the Committee is being asked to consider providing water and sewer service to that structure. Mr. Friedline added that because the property is split, in his opinion, it would be inappropriate for the City to provide service to the lot through a secondary lot in front of it.

Extensive discussion ensued relative to the long-term plan to run a service line along Oasis Street to 80<sup>th</sup> Street and from McDowell Road to Palm; that dead end lines would impact fire protection, water quality and reliability issues; the potential for the property owner to the north of Mr. Grunow to enter into a buy-in agreement with the City to share the cost of the 8-inch water line; that staff would need to conduct further research to determine whether the City could provide sewer service to the property from 80<sup>th</sup> Street; and that the City has begun a dialogue with the County regarding improvements and paving of Oasis Street.

Responding to a question from Chairman Jones, Mr. Friedline advised that in view of the fact that Mr. Grunow has divided his property into three parcels, he would modify his recommendations (per Option 3) to include, but not be limited to: the installation of the water line across the frontage of Oasis Street; dedication of right-of-way; and require some pavement ("dustless surfaces") on Oasis Street at the frontage of the two parcels.

Ms. Albright noted that although the City would request the dedication of right-of-way, the County might choose not to accept it as right-of-way. She stated that in that case, it would be a Public Utilities and Facilities Easement (PUFE), on private property, and the responsibility of Mr. Grunow to maintain.

Mr. Grunow reiterated the comments he made at the October 19<sup>th</sup> meeting concerning his 1999 negotiations with the City of Mesa that resulted in the City receiving a parcel of land that fronted on McDowell Road for the construction of a fire station and in exchange, he received a parcel at the rear of his existing property. (The October 19, 2006 Utility Committee minutes are available for review in the City Clerk's Office.) He noted that during those negotiations, he indicated his

future intention to split his property and also that he wanted to retain the same services that would have been available to him had he retained ownership of the McDowell Road frontage. Mr. Grunow also commented that although the City granted him an easement on the fire station property so he could receive sewer service to his property, he was unaware of the fact that the City would only extend sewer service along 80<sup>th</sup> Street to the fire station.

Mr. Grunow acknowledged that splitting his property into three parcels has caused problems, but said that it was important for his sister to have a home in which to reside. He also stated that he has two easements on his property, one on the land he sold to his sister (from the present water meter to his property), and the easement granted by the City for the sewer line.

Additional discussion ensued relative to the easement on the lot Mr. Grunow sold to his sister; that in the future, if he or his sister no longer owned the easement, it could cause difficulty for the City to access the easement in order to maintain water or sewer lines; that Mr. Grunow is proposing the installation of a water meter next to his existing water meter (via the easement on his sister's property); and that he has already installed a septic tank on his property.

Committeemember Somers commented that because of the apparent change in the lot split since the October 19<sup>th</sup> meeting, in his opinion, it would be appropriate for staff to continue to work with Mr. Grunow to determine how best to resolve the matter of providing water service to the third lot.

Chairman Jones commented that at the October 19<sup>th</sup> meeting, the Committee attempted to minimize the impact to Mr. Grunow to split his property. He stated, however, that because the property has now been divided into three parcels, he would oppose moving the applicant's request forward to the full Council at this time.

It was moved by Committeemember Whalen to recommend to the Council that Option 3 be approved with regard to the northeast parcel; that with regard to the northwest parcel located on Oasis Street, he would recommend the extension of the water line around the corner from 80<sup>th</sup> Street; and that future improvements include "minimal asphalt" on Oasis Street.

Committeemember Whalen further commented that he sees no reason for the City to engage in further negotiations with Mr. Grunow other than the above-mentioned recommendations.

Mr. Friedline noted that at a minimum, it is essential that the City install the 8-inch water line on 80<sup>th</sup> Street to Oasis Street and from Oasis Street west to 79<sup>th</sup> Street. He added that it is important that future property owners in the area bear the cost for such improvements.

Committeemember Somers commented that although he does not want the City to incur the above-referenced costs, he also does not want Mr. Grunow's neighbors to not pay their share. He stated that he would be interested in seeing how staff balances the costs so that they are shared equally and equitably by the property owners as the neighborhood develops.

Mr. Friedline clarified that staff could implement a buy-in agreement that would have a maximum life of ten years. He stated that if an individual develops in the area and requires water service, the City could calculate that person's share of the costs and the City would reimburse Mr. Grunow for that portion of the waterline.

City Attorney Debbie Spinner offered the following suggestions for the Committee to consider with regard to this case: 1.) Send the item back to staff to more clearly define the issues and then bring the case back to the Committee for further consideration; 2.) Deny the request; and 3.) The Committee makes a motion to forward the case on to the full Council. She added that per Ordinance No. 3880, the case requires an affirmative vote of the Committee in order for it to move forward to the full Council.

Committeemember Whalen stated that he would withdraw his motion because there is a wide range of issues and concerns that still must be resolved before the matter could be forwarded on to the full Council.

Mr. Friedline commented that if the Committee does not deny Mr. Grunow's request, the original case could be referred back to staff and Mr. Grunow would not be required to file a new application and incur additional fees. He stated that staff would continue to negotiate with Mr. Grunow in an effort to achieve a satisfactory resolution to the matter.

Committeemember Whalen inquired whether Mr. Grunow was in agreement with the above-mentioned option outlined by Mr. Friedline.

Mr. Grunow questioned whether it would be necessary for him to proceed with the project immediately or if such action could be delayed, perhaps, for as long as two years. He indicated that he would like City water service as soon as possible, but stated that it is necessary for him to acquire the needed funds in order to pay for the project.

Mr. Friedline explained that staff would continue to work with Mr. Grunow to determine whether he, in fact, wants water service to his property and would establish an estimated timeframe in which the water connection would occur. He noted that if the connection does not occur within the next 24 months, he would question why Mr. Grunow would be asking for the service to begin with. Mr. Friedline reiterated his previous comments that because of the three-lot split, he would not recommend bringing an 8-inch water line up 80<sup>th</sup> Street and running it across the lot on the northeast section to go to the "garage."

Chairman Jones stated that the direction of the Committee is that staff assess what "minimal efforts" could be accomplished in order to meet Mr. Grunow's needs. He stated that if those negotiations are successful and Mr. Grunow wishes to bring the case back to the Committee, that would be appropriate, and if not, the case would proceed no further.

Mr. Grunow expressed appreciation to everyone for their efforts and hard work regarding this case.

3. Discuss and consider a request from Mr. Robert White for water and wastewater service outside the City limits at 8032 East Mawson.

Deputy City Manager Jack Friedline referred to a document entitled "Exhibit C," copies of which were distributed to the Committee, and reported that Mr. White is requesting that water be extended to his property, which is located outside Mesa's corporate limits. (See Attachment 4.) He explained that the project is not in compliance with Mesa's "Terms and Conditions for the Sale of Utilities" nor the exceptions outlined in Section 23 (A) or (B). He also noted that the property should be annexed, but cannot because it is not contiguous to Mesa's City limits.

Mr. Friedline commented that staff is presenting three options for the Committee's consideration. He noted, however, that he recommends Option 3, which would require the applicant to develop to Mesa's standards that include, but are not limited to, the following:

1. Design, permitting and installation of 475 linear feet of an 8-inch water main, service and fire hydrant on East Mawson Road connecting to an existing 8-inch main on North 80<sup>th</sup> Street. (Estimated cost of \$38,000.)
2. Dedication of adjacent rights-of-way along the south property line for East Mawson Road. (Width to be determined after consideration of existing building's location.)

Mr. Friedline advised that Option 2, Stipulation 2, addresses the dedication of an adjacent 25-foot right-of-way along the south property line for East Mawson Road, but noted that in staff's opinion, the applicant is unable to comply with such a requirement because of an existing structure (garage) on his property that would be located too close to the centerline of the roadway. He stated that the City would endeavor to dedicate as much right-of-way as is reasonable because Mawson Road may become an asphalt street at some point in the future.

Deputy Building Safety Director Tammy Albright displayed a map depicting Mawson Road and briefly highlighted its possible future location. She clarified that Mawson Road is currently a dirt road and advised that in the area of Mr. White's property, an easement exists that comes in from 80<sup>th</sup> Street and goes north. She stated that staff believes Mr. White's garage is located approximately 15 feet north of his south property line and said that is the reason Option 3 references the dedication of right-of-way only to the point of that structure as opposed to the full 25 feet.

Mr. Friedline further informed the Committeemembers that a City service line is located on 80<sup>th</sup> Street that stretches to an easement along Mawson Road and runs along 80<sup>th</sup> Place past the applicant's property to the property to the north. He explained that this is a pre-existing condition that occurred in the late 1990s and commented that it is very unusual for a service line to be of such length. Mr. Friedline further stated that in an effort to remedy this matter, once the 8-inch line is installed along Mawson Road, staff proposes to terminate the existing line at the new line so there is only 200 feet of service line as opposed to what currently exists. He added that the property owner to the north of Mr. White has agreed to those modifications.

Mr. Friedline also reported that regarding the property directly west of Mr. White's property, staff has requested that the City obtain, at a minimum, a Public Utilities and Facilities Easement (PUFE) and possibly right-of-way for the installation of the 8-inch water main. He stated that that property owner has agreed to the City's request.

Mr. Friedline continued to list the remaining development standards that would be included in Option 3 as follows:

3. Payment of all fees associated with water service/meter, including water impact fee.
4. Payment of a Utility Service Agreement fee equal to all of the other City Development Impact Fees for single-family residential properties.

Robert White, the applicant, offered a brief historical overview of the case. His comments included, but were not limited to, the following: that in 1997, he requested City of Mesa water for his home, but was denied because his property was not adjacent to 80<sup>th</sup> Street where a main

water line existed; that he was compelled to install a well to provide water to his home and has recently experienced problems with low water flow; and that he subsequently became aware of the fact that in 1998, his neighbor to the north requested and obtained City of Mesa water even though that property was not adjacent to or had frontage on a dedicated public street.

Discussion ensued relative to the fact that if the water main was installed on Mawson Road, because the property owner to the north already has water service, the City could not legally require that he bear a portion of the cost for that work; that the applicant has not attempted to be annexed into the City of Mesa; and that none of the surrounding property owners have expressed an interest in annexation.

Committeemember Somers expressed opposition to the City providing services to individuals who reside outside of Mesa's corporate limits and stated that the applicant lives in the County by choice. He acknowledged that the applicant may be experiencing difficulties with low water flow, but commented that in the 1990s, a previous Council set precedent and allowed the installation of the service line as described by Mr. Friedline. Committeemember Somers added that he prefers this area of the County be annexed into the City and comply with Mesa's development standards.

In response to a question from Committeemember Somers, Mr. Friedline clarified that in the area of the County in which the applicant's property is located, many of the parcels that have been developed already receive City of Mesa water.

Committeemember Somers stated that regarding the applicant's request, perhaps he could be "somewhat reasonable" if staff believes the City would benefit long term by installing the 8-inch water main on North 80<sup>th</sup> Street and securing the right-of-way and whatever other improvements are necessary.

Mr. White expressed concern regarding the City's proposed dedication of right-of-way along the south property line for East Mawson (utilizing a 15-foot setback) and said that a roadway in such close proximity to his garage could result in safety issues.

In response to Mr. White's comments, Mr. Friedline clarified that staff would work with Mr. White to address his concerns regarding Mawson Road and stated that if the City cannot obtain a right-of-way, it would do a PUF. He assured the Committee that in the spirit of reasonableness, staff would do whatever is necessary to address this matter as it currently exists and added that staff is not asking that Mr. White move his garage to another location. He stressed that the City intends to develop a roadway system that is safe for everyone. Mr. Friedline further noted that in the future, he does not envision Mawson Road as a major arterial, but something less than a collector road and more than a driveway.

Committeemember Somers expressed additional concern that in the long term, the City may have difficulty continuing Mawson Road all the way through. He questioned whether it would be appropriate for the Committee to delay making a decision in this matter until such time as the area is annexed into the City.

Mr. Friedline stated that it would be important to incrementally develop the infrastructure and obtain as much right-of-way and PUF now as opposed to later. He added that staff attempts to be as reasonable as possible with regard to situations such as this that would not occur in

undeveloped areas in Mesa where the City's development standards (i.e., property setbacks and right-of-ways) must be met.

Committeemember Whalen commented that he served on the Council in 2000 when the ordinance was enacted which disallowed individuals residing outside Mesa's corporate limits from receiving City services. He stated that it is unfortunate that Mr. White's neighbor was allowed to receive City water while Mr. White was not, but noted that was one of the reasons the ordinance was enacted, so that would not occur in the future.

Extensive discussion ensued relative to the installation of the service line in 1998; that staff has been unable to locate documentation reflecting such a transaction; and that staff attempts to address on an individual basis each request for water and wastewater service outside Mesa's corporate limits.

It was moved by Committeemember Somers, seconded by Committeemember Whalen, to recommend to the Council that water service for the property located at 8032 East Mawson Road be provided, subject to the stipulations contained in Option No. 3.

Councilmember Griswold commented that although Mr. White's property is located within his Council district, it is situated in the County. He cited various examples of development in the County that do not conform to Mesa's standards and stated that there are currently several annexation requests pending. Councilmember Griswold added that in his opinion, it "makes sense" to provide water service to individuals who want to be annexed into Mesa, but not to those who choose to remain in the County.

Committeemember Whalen inquired whether Mr. White was willing to proceed with staff's recommendation.

In response to an inquiry from Mr. White, Mr. Friedline stated that he estimates Mr. White would incur approximately \$38,000 in costs to complete this project. He emphasized, however, that that amount is merely his "best estimate" and not one on which Mr. White should depend. He added that staff would work with Mr. White to address all of the details of the project.

Mr. White advised that he was agreeable to moving forward with the project at this time.

Chairman Jones called for the vote.

Carried unanimously.

(Chairman Jones excused Committeemember Whalen from the remainder of the meeting at 11:16 a.m.)

Chairman Jones recessed the meeting at 11:16 a.m. and reconvened the meeting at 11:20 a.m.

4. Discuss and provide direction on whether the City should allow the formation of Irrigation Water Delivery Districts within City boundaries.

Utility Manager Dave Plumb introduced Water Resources Coordinator Kathryn Sorensen and Utilities Attorney Bill Taebel, who were prepared to address the Committee relative to this agenda item.

Ms. Sorensen displayed a PowerPoint presentation in the Council Chambers and provided an extensive overview of this issue. (The presentation is available for review in the City Clerk's Office.) She reported that certain landowners within the boundaries of the Salt River Project (SRP) and the Roosevelt Water Conservation District (RWCD) have a right to use surface water that is delivered by the SRP canal system. Ms. Sorensen explained that just as the City of Mesa has no responsibility for utility lines that run from the meter to a customer's house, SRP and RWCD have no responsibility for the infrastructure used to deliver water once the water leaves the SRP or RWCD canal. She stated that the method of paying for irrigation water deliveries varies from informal (i.e., one neighbor pays and hopes to recoup from other neighbors) to formal (the relevant homeowners' association assesses property and maintains the system).

Ms. Sorensen indicated that Irrigation Water Delivery Districts (IWDD) are special taxing districts formed when property owners desire to provide for the delivery of irrigation water to their lands. She commented that IWDDs are "bodies corporate" but not municipal corporations; that the entity has perpetual succession and may exercise the power of eminent domain, contract and be contracted with, sue and be sued in its corporate name, acquire, hold and dispose of real and personal property, and do all things lawful and reasonably useful in carrying out its purposes. Ms. Sorensen added that the County must approve the formation of an IWDD, but said that if such a district intends to form within City boundaries, an official City endorsement is necessary before the County can approve the formation.

Ms. Sorensen further commented that the issue of IWDDs first came to staff's attention when Committeemember Somers received a letter from Scott Grainger, a representative of the Summer Mesa Homeowners' Association (HOA), requesting that the City Council endorse the creation of an IWDD by the HOA. She stated that in researching this issue, staff learned that there are currently three IWDDs that exist within the City of Mesa (Tanner Groves, Groves of Superstition Ranch and Groves of Hermosa Vista), but noted that the City never approved the formation of those districts.

Discussion ensued relative to the fact that IWDDs are governed by a board of three landowners; levy acreage assessments on landowners; charge water delivery fees; submit an annual report to the County Board of Supervisors detailing the names of the Boardmembers, meeting times and locations, fund expenditures and balances; that of Mesa's three IWDDs, Tanner Groves is the only district that holds board meetings; and that there are most likely statutory requirements regarding an IWDD board conducting annual meetings, although once an IWDD is formed, there is little oversight regarding the entity.

In response to a question from Chairman Jones, Ms. Sorensen explained that it was her understanding that the Summer Mesa HOA wished to create an IWDD because the residents did not want the HOA to carry such a large balance in its bank account. She stated that

generally speaking, HOAs are capable of assessing lands and maintaining irrigation services and noted that the need for the broader powers provided by a special taxing district is unclear.

Committeemember Somers commented that what struck him as unusual with this request is the creation of another level of government to regulate water. He said that the formation of the Summer Mesa IWDD would, in effect, provide that district with more power than the HOA that created it.

Further discussion ensued relative to the fact that the formation of an IWDD would have no effect on water rights; that the property owned or used by IWDDs is exempt from taxation when used for district purposes; that IWDDs may use public roads for rights-of-way; that IWDDs can exercise the power of eminent domain (Note: the extent of this power is uncertain and relatively untested); that there are no City costs inherent in the act of approving or not approving district formation; that there may be indirect costs related to disputes arising over special taxing district powers, but such disputes are unlikely; and that Mesa, Tempe and Phoenix have pending requests for the formation of IWDDs.

Chairman Jones stated that his only concern with regard to this issue is if an IWDD exercised its power of eminent domain over the City, for instance, to tear up a street to perform repairs to a pipeline and the problems that could arise as a result thereof.

In response to Chairman Jones' comment, Mr. Taebel explained that the State statute indicates that apart from the eminent domain powers that an IWDD could exercise, the district would have the right to utilize rights-of-way and City streets.

Additional discussion ensued relative to the fact that staff is unaware of any IWDDs that have exercised the power of eminent domain on public or private property; and that there is specific legal authority to condemn rights-of way and it must be specific for the purposes of the IWDD.

Committeemember Somers referred to a map contained in the December 28, 2006 City Council Report and questioned whether the location of a particular "Wheel Standbox" is part of the Summer Mesa subdivision or an adjacent subdivision. He expressed concern that if that infrastructure were not associated with Summer Mesa, the proposed IWDD would have the ability to exercise eminent domain over the backyards of homeowners to the west outside of the district.

Ms. Sorensen clarified that staff would conduct research with regard to whether the irrigation system to the west is interconnected with the Summer Mesa subdivision and also further address the issue of an IWDD exercising eminent domain.

Committeemember Somers commented that he would prefer that this matter be delayed in order for staff to conduct further research. He noted that with regard to the alternatives proposed by staff, he would consider the approval of IWDD formation requests on a case-by-case basis.

Chairman Jones stated that although he believes it would be foolish for the Summer Mesa HOA to form an IWDD, he would not object to its creation if that were the desire of the property owners. He also directed that pending completion of staff's research, that this item be brought

back to the Committee for further discussion and consideration and added that it might be appropriate for Mr. Grainger to address the Committee at that time as well.

Chairman Jones thanked staff for the presentation.

5. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 11:50 a.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 4<sup>th</sup> day of January 2007. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK

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Attachments – 4