

UTILITY COMMITTEE MINUTES

October 19, 2006

The Utility Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on October 19, 2006 at 9:03 a.m.

COMMITTEE PRESENT	COMMITTEE ABSENT	STAFF PRESENT
Kyle Jones, Chairman Scott Somers Mike Whalen	None	Christopher Brady Jack Friedline Barbara Jones Debbie Spinner

1. Discuss and consider a request by Mark Bonds and others in the general area east of North Crismon Road and north and south of East Jensen Street to provide water service outside the City limits.

Chairman Jones noted that David Udall was present to represent Mark Bonds, and he invited Mr. Udall to come forward to address the Committee.

Mr. Udall, an attorney with Udall, Shumway & Lyons, stated that he also represents the neighborhood, and he noted that several of the neighbors are present in the audience. He displayed a map (see Attachment 1) that identified the boundaries of the area requesting water service. Mr. Udall explained that the original franchise area was a part of a 1992 exchange of service agreement between the City of Mesa and the Arizona Water Company. He noted that an Arizona Corporation Commission Order regarding the agreement refers to a continuing need for water in that area and that the City of Mesa expressed a willingness to provide water service to the area. Mr. Udall advised that the City presently provides access to a water station in the area, which is then delivered to area homes by privately-owned trucking companies. He reported that the area presently consists of approximately 140 homes and an additional 140 vacant lots. Mr. Udall referred to Section 17, item A.3, of Ordinance No. 3880, which provides an exception to the annexation requirement when the "...property is located within the former boundaries of a private water and/or wastewater company that has been acquired by the City of Mesa, and that the property has the legal right to receive water and/or wastewater service as a condition of the City's acquisition of the company..." Mr. Udall stated the opinion that this section of the ordinance obligates the City to provide water service to the area. He said that although the residents accept the responsibility for the cost to extend pipes to their property, they object to paying impact fees and do not wish to comply with the other City of Mesa conditions. Mr. Udall added that the residents do not wish to be annexed into the City or receive other City services.

City Attorney Debbie Spinner provided the Committee with a copy of the “terms and conditions...and rules and regulations for the sale of utilities...” (a copy is available for review in the City Clerk’s Office), which became effective August 1, 2006.

In response to a question from Committeemember Whalen, Ms. Spinner confirmed that the revised terms and conditions are modifications to Ordinance No. 3880, and she noted that the section of Ordinance No. 3880 referenced by Mr. Udall did not change with the adoption of Ordinance No. 4557.

Chairman Jones stated that staff would now have an opportunity to present information related to the request for water service.

Ms. Spinner introduced Deputy Building Safety Director Tammy Albright and Development Planning Analyst Beth Hughes-Ornelas. She stated the opinion that when the Certificate of Convenience and Necessity (CC&N), the State Statutes and the Mesa City Code are considered as a whole, the City has no legal obligation to provide water to the area or to any area outside of the City’s boundaries. Ms. Spinner noted that the 1992 agreement between the Arizona Water Company and the City of Mesa was an exchange of CC&Ns, and therefore Mesa does hold the CC&N for that area. She explained that the findings of fact by the Corporation Commission was that the City of Mesa is ready, willing and able to provide water service, and she stated that the City remains ready, willing and able to provide service if certain conditions are met by the applicant, such as annexation, payment in lieu of impact fees, construction to City standards and compliance with the City’s General Plan. Ms. Spinner noted that other cities impose similar conditions.

Ms. Spinner referred to the Arizona Revised Statutes §9-516, subsection C, which states that “A city or town acquiring the facilities of a public service corporation rendering utility service without the boundaries of such city or town, or which renders utility service without its boundaries, shall not discontinue such service, once established, as long as such city or town owns or controls such utility.” She stated that the Arizona Water Company was not providing water service in this area at the time the City of Mesa entered into the CC&N exchange agreement.

Ms. Spinner referenced the following cases and stated that although these cases do not specifically address the question before the Committee, the reasoning of the court supports the position that the City does not have a legal obligation. She cited a 1989 case, *Jung v. City of Phoenix*, where the court decided that “...the City, in providing water service to non-residents, is acting in its proprietary capacity and absent a statute has no duty to provide water to the non-residents.” Ms. Spinner referred to *Kollar and Kriegh v. City of Tucson* (1970), in which the U.S. District Court said that “Under Arizona law, the municipality has no obligation to provide non-residents with water service nor can the non-residents compel such service.” She also cited the *City of Phoenix v. Kasun* (1939) where the Arizona Supreme Court said “...that the remedy of the outside consumer is an appeal to the political authority such as the legislature or the voters of the State or a refusal to accept the service on the terms offered by the City.” Ms. Spinner stated the opinion that the case contemplates and authorizes a City to impose certain conditions in order for non-residents to receive water service. She noted that the relevant provision in the “terms and conditions” is Section 23, A-3, which states that

individuals may receive City water and wastewater services when “The property is located within the former boundaries of a private water and/or wastewater company that has been acquired by the City of Mesa and that the property has the legal right to receive water and/or wastewater service as a condition of the City’s acquisition of the company;...” Ms. Spinner said that neither the State Statutes nor the CC&N legally obligates the City to provide water service. She stated the opinion that the although City of Mesa is not legally obligated to provide water, the City is not prohibited from providing water in the event the conditions are met regarding annexation, in lieu payments, complying with the General Plan, constructing to City standards, installing the main line extensions, etc. She stated that the Committee has the authority to waive the annexation requirement, but the applicant would still be required to meet all other conditions.

Chairman Jones requested that staff outline the costs to install water lines in order to provide the residents with an understanding of the magnitude of the project.

In response to a question from Committeemember Somers, Ms. Spinner advised that a utility could legally discontinue service for non-payment of charges. She said that the City could also refuse to provide service to a customer with a prior history of non-payment of utility bills to other companies. Ms. Spinner said that A.R.S. §9-516 D, in addressing the issue of a city or town refusing to provide service, states that in the case of a City holding the CC&N for a particular area, the Corporation Commission does not have the authority to issue a different CC&N for the area unless the City refuses to provide service. Ms. Spinner stated the opinion that because the Statute addresses actions to be taken when service is refused, the Statute implies that the City has the right to refuse service. She further stated the opinion that the City’s requirement that applicants meet certain conditions does not constitute a refusal to provide service. She noted that the applicants could present their case to the Corporation Commission for a determination.

Responding to a question from Committeemember Whalen, Ms. Spinner advised that the City’s water station is not the source of water contemplated in the Statutes. She noted that water from the station is available to anyone who wishes to make a purchase.

Ms. Albright reported that the water station is located at 220 North Crismon Road. She referred to Exhibit G (see Attachment 3) of the Utility Committee Report (a copy is available for review in the City Clerk’s Office) and identified the existing water mains and the proposed eight-inch and twelve-inch water mains. Ms. Albright advised that staff’s “rough estimate” of the costs to install the water lines is \$850,000, plus an additional \$315,000 to install the sewer lines (see Attachment 4). She noted that the City’s sewer line extends to the intersection of North Crismon Road and East Jensen Street and that Maricopa County would determine which properties would be required to access that sewer line. Ms. Albright said that staff is unable to provide better estimates or determine elevations and zone transfers that may be required in the area until the engineering plans are completed.

In response to comments from Committeemember Whalen, Ms. Albright confirmed that insufficient pressure exists in the line off North Crismon Road to provide fire protection service and that an engineering study would be required to address residential requirements and the potential for future development.

Chairman Jones noted that new homes in an existing City subdivision located in the area of North Crismon Road are required to install home sprinkler systems for the reason that the water pressure is insufficient to provide fire protection service.

Ms. Albright advised that the same infrastructure requirements would apply whether the area annexed into the City or remained in the County.

Responding to a question from Committeemember Somers, Ms. Albright stated that the County residents would be required to pay the total costs to extend the twelve-inch line. She added that these residents could establish "private-line buy-ins" for future residents who may want to access the system.

City Manager Christopher Brady noted that under normal circumstances, the cost of infrastructure would have been included in a land sale before the development of a project. He stated that the projected costs are not extraordinarily high and that the situation is unique in that the costs are being incurred after the project was developed. Mr. Brady added that the City's fees are no different from the amount charged to a developer in advance of a project.

Chairman Jones stated that the issue before the Committee is whether to grant an exception, and he noted that the residents indicated that they do not wish to annex into the City. He noted that regardless of whether an exception is granted, the residents would be responsible for the infrastructure costs. Chairman Jones added that the City would still require a payment in lieu of impact fees and construction to City standards.

Responding to comments from Committeemember Whalen regarding the City's development standards, Ms. Spinner noted that in the past several years the Committee has consistently required applicants to meet these conditions.

Discussion ensued regarding the proposed options and development standards (see Attachment 2); that staff's recommendation for Option 1 requires annexation into the City; that Option 2 would not require annexation, but would require a Utility Service Agreement; and that both options require development to City of Mesa standards.

Ms. Spinner noted that since the request was initiated on behalf of Mr. Bonds, an increased number of residents, who Mr. Udall has yet to identify, have expressed an interest in obtaining service.

Ms. Hughes-Ornelas explained that the estimated costs would increase if the area expands beyond the original boundary. She stated that without established elevations and an engineering design, staff is unable to estimate where the zone break would occur and which homes could adequately be provided with fire protection.

In response to a series of questions from Committeemember Somers, Ms. Hughes-Ornelas advised that the City collects fees from a Mesa homeowner at the time the home is constructed or when a water meter is requested. She stated that County residents would pay the fees at the time service is connected. Ms. Hughes-Ornelas explained that the City is not responsible for the installation of the infrastructure, and that

the residents are required to hire an engineer, contract for the construction of the infrastructure to City standards and pay for the costs.

Mr. Brady noted that similar to the case of a developer constructing a subdivision, the residents would act as a group and when the infrastructure is in place according to City standards, the City would provide service and collect the fees at the time the meters are installed.

Responding to a question from Committeemember Whalen, Ms. Hughes-Ornelas advised that an existing single-family home in an annexed area would not share in the costs for construction of a half street.

Development Services Manager Jack Friedline stated that under current policy the City would assess only new development for the cost of a half street.

In response to a question from Committeemember Whalen regarding sewer service, Ms. Hughes-Ornelas said that an existing residence would pay only the cost for the connection from the home to the line. She added that an existing residence with a septic system would not be required to connect to the sewer line.

Mr. Friedline responded to a question from Committeemember Whalen by confirming that the general policy of the City is that in lieu payments and impact fees are required as a condition of service.

Ms. Spinner recalled that the only cases for which the City waived the annexation requirement involved one or two small parcels and that in each case the other conditions were imposed including impact fees, construction to City standards, etc.

Chairman Jones noted that the City has a history regarding these requirements, and he invited Mr. Udall to address the Committee.

Mr. Udall, in rebuttal to Ms. Spinner's opinion, stated that the City has a legal and a moral obligation to provide service. He noted that in 1992 the City stated that it was ready, willing and able to provide service to this area. Mr. Udall said that in 2001, the Council changed the rules to require annexation and the payment of impact fees. He noted that the application on behalf of his client was filed on June 26, 2006, requesting a hearing before the Committee, and that on August 6, 2006, the Council changed the rules again. Mr. Udall confirmed that his clients are obligated to pay the costs to extend the lines, but he expressed concern regarding the other conditions. He also expressed the opinion that the costs to extend the lines would not be as high as estimated by City staff.

In response to a question from Chairman Jones, Ms. Spinner noted that the provision regarding the City's obligation to provide service did not change in August of 2006. She advised that the relevant changes made in August include the following:

- The Utility Committee has the legal authority to recommend to the Council a waiver of the annexation provisions, but the Committee does not have the authority to recommend a waiver of the other conditions.

- The Council does not have the legal authority to waive the conditions without changing the City Code.

Mr. Udall reaffirmed that his clients do not wish to annex into the City because of the additional conditions. He suggested that the City consider decertification of the service area to enable another company to provide service. Mr. Udall reported that he first initiated discussions with the Arizona Water Company and then was informed that the City of Mesa held the CC&N for the area. He stated the opinion that the Arizona Water Company would be willing to provide service if the City of Mesa relinquished the CC&N for the area. Mr. Udall said that his clients would like to remain in the County and receive service without paying the fees required by the new rules.

Chairman Jones requested that Mr. Udall comment on the reasoning of the Council for implementing the impact fees and building standards.

Mr. Udall said that he understood that the Council's decision to implement fees was based on requiring new development to pay for their fair share of the costs rather than placing the burden on the existing residents. He noted, however, that the City has an obligation under the 1992 agreement to serve the area, and he stated the opinion that the agreement should not be changed after the fact.

Further discussion ensued relative to the fact that the no homes in this area presently receive City water directly to their property through infrastructure; that approximately 200 homes are serviced by independent trucking firms that haul City water from the North Crismon Road water station; that several well sites exist in the area; that water from the North Crismon Road water station is available to anyone, resident or non-resident of Mesa, who is willing to pay for it; that discussions have been held regarding the future of the water station; and that the City does not believe that the availability of a water station equates to "providing service."

Mr. Brady stated that every utility has designated "certified" areas for which they may provide service in order to avoid overlapping jurisdictions and to clearly identify the service provider in that area. He added that every utility also imposes certain conditions that must be met in order to obtain service.

Ms. Spinner addressed the definition of "water service." She recalled a recent case considered by the Council where the applicant was receiving City water service to a small parcel located outside of the City. Ms. Spinner said that the applicant accumulated adjacent parcels in order to construct a Quik Trip and then requested service for the additional parcels. She noted that the opinion of the City Attorney's Office, with which the Utility Committee concurred, was that although service was provided to one parcel, acquiring the adjacent property and increasing the service demand was no longer the same "service" as identified in the Statutes. Ms. Spinner reiterated that the availability of a water station does not legally obligate the City to provide infrastructure and pipes to the homes in the CC&N area.

In response to a question from Committeemember Whalen, Mr. Brady said that the City would consider a proposal from the Arizona Water Company for an exchange of or compensation for the CC&N area. He stated the opinion that relinquishing a CC&N area

for which the City made an exchange or received compensation was not in the best interest of the City.

Ms. Spinner explained that a decision by the City to abandon or exchange a CC&N would have to be presented to the Corporation Commission.

Responding to a series of questions from Committeemember Somers, Mr. Udall advised that wells continue to be developed in the area. He stated that the options preferred by his clients are that water service be provided without imposing the City's conditions or that the City relinquishes their CC&N to the Arizona Water Company. Mr. Udall said that his clients understand that they are responsible for the cost to construct the infrastructure. He said that their objections are related to the other conditions, such as building to the City of Mesa Code. Mr. Udall added that his clients are not interested in sewer service and that septic systems are already in place.

Ms. Spinner stated that a Code change would be required in order for the Committee to recommend either of the options to the Council.

Mr. Friedline clarified that the right-of-way referred to in the conditions relates to both the roadway and the utilities.

Chairman Jones summarized that all parties understand that the residents are responsible for the infrastructure costs. He said that the impact fees represent a "buy in" for the cost of the water plant that provides service to all Mesa residents, and he asked Mr. Udall to confirm that he was requesting a waiver of these fees.

Mr. Udall confirmed that he was requesting a fee waiver based on the 1992 CC&N agreement.

Chairman Jones stated the opinion that a legal obligation to provide water service does not obligate the City to do so without charging the costs to provide that service. He further stated the opinion that the Council would not approve a waiver of fees for the applicant.

Committeemember Whalen explained that providing service to developments outside of the City places an unfair burden on City of Mesa residents. He added that requiring the area to conform to City standards eliminates the City's need to retrofit the area in the event of a future annexation. Committeemember Whalen noted that the August 2006 Code change did not significantly impact the existing Code. He advised that he would not support the service request without annexation or a development agreement that incorporated the requirements of Option 2. Committeemember Whalen also explained that without a Committee recommendation, the request would not move forward for Council consideration.

It was moved by Committeemember Whalen, seconded by Committeemember Somers, to deny the applicant's request for water service, which also included a request to waive fees and an exemption from City of Mesa development standards.

Committeemember Somers noted that an extension of the twelve-inch water line would provide a benefit to some City of Mesa residents, and he suggested that the Arizona Water Company could enter into negotiations with the City regarding the service area.

Mr. Udall stated that his understanding of the Committee's position is that staff's proposal for Options 1 or 2 were acceptable in addition to the option he proposed relative to the City negotiating with the Arizona Water Company regarding the CC&N.

Mr. Brady clarified that the City would be agreeable to a request from the Arizona Water Company to enter into negotiations regarding the CC&N.

Chairman Jones said that the Committee has a responsibility to not place an undue burden on the entire City in order to accommodate a particular group.

Chairman Jones called for the vote.

Carried unanimously.

Chairman Jones recessed the meeting at 10:14 a.m., and reconvened the meeting at 10:23 a.m. with all members present.

2. Discuss and consider a request from Bill Grunow for water and wastewater service outside the City limits at 2822 N. 80th Street.

Bill Grunow, the applicant, addressed the Committee and provided each Committeemember with a copy of his letter (see Attachment 5) that outlined his request. He reviewed the history of his 1999 negotiations with the City of Mesa, which 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. He displayed a map (see page 2 of Attachment 5) of the area. Mr. Grunow noted that at the time of the land exchange, he indicated his future intention to split his property and that he wanted to retain the same services that would have been available to him had he retained ownership of the McDowell Road frontage. He said that he is now being advised that he is unable to receive water and wastewater services for the subdivided parcel. Mr. Grunow expressed the opinion that his parcels should be "grandfathered in" relative to receiving water and wastewater service. He noted that after the fire station was constructed, the City unsuccessfully attempted to annex the surrounding area.

In response a question from Chairman Jones, Mr. Grunow stated that he is requesting City water and wastewater service to the split parcel.

Responding to a question from Committeemember Whalen, Mr. Grunow advised that pages 3 and 4 of Attachment 5 are his notes regarding negotiations with the City's Real Estate Department. He stated that the notes are not documented, and he added that the City's Real Estate personnel suggested at the time that he delay any decision regarding a possible split of his parcel. He said that City staff also advised that his wastewater easement from McDowell Road enabled him to access services. Mr. Grunow noted that in hindsight he should have retained an attorney to negotiate on his behalf.

In response to a question from Committeemember Whalen, Planner Cory Whittaker advised that the split parcel would be less than one acre and that the General Plan area designation is low-density residential, which requires a minimum lot size of one acre.

Discussion ensued relative to the fact that Mr. Grunow's property currently consists of 2.16 acres; that the manner in which Mr. Grunow plans to split the property conforms to County standards; that the County's Rural 35 zoning is comparable to the City's R-135 zoning; and that Mr. Grunow is not proposing an equal split of the existing parcel and therefore a parcel that is less than an acre would not conform to the General Plan.

Ms. Spinner advised that the Committee does not have the discretion under the existing Code to waive compliance with the General Plan in order to provide water service to this parcel. She stated that a Code change would be required in order to provide service.

Further discussion ensued relative to the fact that the manner in which Mr. Grunow subdivides his property would determine whether the Council could consider granting a waiver; that parcels of one acre or more would be compatible with the General Plan; that the applicant could propose a Minor General Plan Amendment; and that in addition to the General Plan, compliance with the other development standards would continue to be required.

Responding to a question from Committeemember Whalen, Mr. Friedline stated that the development standards for East Oasis Street address future requirements. He also confirmed that Mr. Grunow would be required to pay for the construction of a half street. He addressed Mr. Grunow's suggestion that an additional meter be installed by noting that future development on Oasis Street would be required to extend the water line across Mr. Grunow's lot. He advised that the City typically requires the installation of water lines along the property frontage line. He stated that future development that occurs within the subsequent ten-year period could "buy in" to the water line system paid for by Mr. Grunow, which could reimburse him for approximately half of the costs.

Mr. Grunow expressed doubt that Oasis Street would be developed in the future. He also noted that other residents in the area are not interested in receiving City services.

Mr. Friedline noted that the standards are required in order to enable the City to address future development. He stated the opinion that future development will occur in this area.

Ms. Spinner stated that Mr. Grunow's "notes" indicate his requests during the three-month negotiation process. She expressed the opinion the City has met all of the provisions of the contract, and she further stated that a change of use does not legally obligate the City to provide water service to the northern section of Mr. Grunow's property. Ms. Spinner advised that although the Committee could recommend to the Council that the City waive the annexation requirement, the existing Code requires the imposition of additional conditions regarding the development standards in order to provide water service.

Additional discussion ensued regarding the fact that the City's requirements include dedication and improvement of both Oasis Street and 80th Street; that a subdivided property is required to comply with the City's subdivision regulations; and that

neighboring properties would not be required to dedicate a portion of their property until such time as the property owner requests City services.

Mr. Friedline advised that the City requires dedication for the street and in a case where immediate construction of the street was inappropriate, the City would request an "in-lieu payment" in order to address the costs of future construction. He expressed the opinion that although future development may not require streetlights and curbs, "dustless surfaces" would be required. He stated that at the Committee's direction, staff could study the area in an attempt to develop lower standards that would minimize the costs. Mr. Friedline added that as the Valley's population increases, particulate pollution caused by traffic on dirt roads would continue to be an issue of concern.

Committeemember Whalen expressed concern that in 1999, the City was silent regarding the issue of extending service beyond the present location, and he added that at the time the General Plan was different and the City would have allowed Mr. Grunow to extend service to the north. He stated the opinion that this case warranted an exception, and he further stated that before adopting recent changes regarding the "Terms and Conditions for the Sale of Utilities" that became effective August 1, 2006, the Council would have approved Mr. Grunow's request.

Mr. Friedline suggested that staff could review the changes to Title 9 that were recently introduced to determine whether modifications could be made relative to offsite improvements in order to address these types of anomalies. He stated that the City might have latitude from that perspective.

Ms. Spinner stated that she would review the Title 9 changes in order to determine the options available.

Mr. Friedline stated that staff is recommending that the existing water line (see Attachment 6) be extended north to the future corner of Oasis and 80th Streets and then to the west along the frontage of Mr. Grunow's property line. He advised that future development requesting City services could be required to reimburse Mr. Grunow for a portion of the expense.

Ms. Albright explained that Mr. Grunow is responsible for the costs to retain the services of an engineer and a licensed and bonded contractor for the construction of the water line extension in addition to paying the City's impact and connection fees.

In response to Committeemember Somers concern that a Committee recommendation before Mr. Grunow subdivides the property would be premature, Ms. Spinner advised that a Committee recommendation would be required in order to provide water service.

Committeemember Whalen stated the opinion that the alternatives should be discussed before the property is subdivided, and he asked if the water line could be extended without triggering the ordinance.

Ms. Spinner advised that although the line could be extended, Mr. Grunow would be required to enter into a Utilities Services Agreement before connecting to service.

Committeemember Whalen suggested that Mr. Grunow could recover his costs to extend the water line by adding that amount to the sales price of the subdivided lot that he intends to sell. He noted that street improvements and access to water and sewer would increase the value of his lot.

Mr. Grunow said that he was unaware that the City would impose these types of fees in the future, and he further stated the opinion that the City had a moral obligation to provide him with that information at the time. He suggested that the City should not enter into negotiations with private citizens.

Committeemember Whalen said he understood that Mr. Grunow intended to secure water service for both locations even though the 1999 contract does not reference that intent. He added that the City was unaware that the policy would change two years later.

It was moved by Chairman Jones, seconded by Committeemember Somers, that the applicant's request be tabled for the present time in order to provide staff an opportunity to work with Mr. Grunow in an effort to determine the available legal alternatives.

Chairman Jones called for the vote.

Carried unanimously.

3. Hear a report on the proposed 2007-2016 Electric Integrated Resource Plan.

Utilities Manager Dave Plumb stated that the City is obligated to prepare an Integrated Resource Plan (IRP) in order to receive Federal hydropower, and he advised that Utilities Resources Division Director Frank McRae was present to outline the process to be followed. He requested that the Committee provide input and comments, and he encouraged the Committeemembers to ask questions at any time during the presentation.

Mr. McRae explained that an IRP is a long-term planning process, and he advised that the primary goals of the Utility Division are safe, reliable and economical service. He stated that the single, undeniable truth regarding planning is that forecasts are inaccurate, and therefore staff accounts for that uncertainty in all areas of their activity. Mr. McRae displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) that outlined the following principles:

- Resource requirements are forecasted, planned and acquired in a timely and efficient manner.
- Demand-side management (DSM), such as energy conservation and energy programs, are compared on a "level playing field" with supply-side (S/S) options, such as purchases from other utilities and power plants.
- Resource options are selected and acquired based on defined planning and selection criteria that are consistent with the direction of the Council.
- The IRP is a requirement of the City's power supply contracts with the Western Area Power Administration, the marketer of power from Federal hydropower projects on the Colorado River. The plan also requires approval by the City Council.
- Public involvement is required as a part of the process.

Mr. McRae advised that certain requirements of the *National Energy Policy Act* of 2005, such as “net metering” and “time of use pricing,” do not apply to the City of Mesa because Mesa is not subject to the *Public Utility Regulatory Policies Act* of 1978. He noted that staff has implemented a ten-year planning horizon from 2007 through 2016. Mr. McRae highlighted a key area of the IRP process that identifies the “short list” by comparing the Design Side Management (DSM) to the anticipated Supply Side (S/S) options.

Mr. McRae referred to the “City of Mesa Peak Demand Loads & Resources” table (see Attachment 7), which identifies the supply side resources currently under contract or currently owned. He said that these resources are with “GENSETS” in the City’s resource portfolio, which are electric generating units purchased in 2001 that have posed reliability and efficiency problems. Mr. McRae advised that these resources are being utilized for emergency purposes only and that staff, as a part of the IRP, initiated an evaluation process to determine whether to retain or divest these generating sets. He noted that the bottom line of the table indicates a deficiency of peak requirements, which is met by partnering and sharing with other recipients of Federal hydropower resources or by making purchases on the “spot market.” Mr. McRae also noted that staff will address the need to replace a number of contracts scheduled to expire in 2013, and he added that reliability is a key factor in the utility planning process. He reported that a computer software program called “strategist” is utilized to perform sensitivity analyses on a wide range of assumptions. Mr. McRae advised that the ultimate goal is to identify the resource or resources that will provide the best service at a minimum cost to the customer. He noted that the final step is a financial assessment to ensure that the City remains within its debt financing ability and that the rate forecast does not predict large increases or “spikes” in utility rates.

Mr. McRae advised that the “Final Preferred Plan” would be robust, flexible, and affordable and adjustable to changes in customer requirements and the marketplace. He stated that the Final Preferred Plan would include a detailed three-year action plan and a summary five-year action plan. He reported that the City is required to submit an approved resource plan to Western Area Power Administration in December 2006. He said that staff anticipates presenting a plan to the Council for approval in early to mid-November. Mr. McRae requested input from the Council relative to whether the resource selection criteria should emphasize minimizing rates or bills, and he stated the opinion that the emphasis should be placed on minimizing bills. He noted that other key issues related to resource selection include the risks of volatile energy prices and supplies, environmental control costs and short and long-term supply contracts.

Mr. McRae noted that although the City is not required to implement a “net metering” approach, staff plans to perform an analysis of “net metering” which will be compared to the other design-side management and supply-side options. He stated that staff would present a recommendation and request Council direction. Mr. McRae advised that the proposed public involvement process includes updates to the Utility Committee in addition to inviting customers to attend an independent meeting in order to obtain their comments.

Chairman Jones suggested that staff schedule more than one public meeting in order to provide a greater opportunity for citizen input. He added that the Committee looked forward to receiving the report.

In response to a question from Committeemember Whalen regarding the Arizona Electric Power Cooperative (AEPCO) contract, which expires in December of 2008, Mr. Plumb advised that discussions are ongoing with potential suppliers of a base resource.

Discussion ensued relative to the fact that the metro Phoenix area would have insufficient generation and transmission capacity by 2009; and that the large utility companies are increasing transmission capacity and planning additional generation.

Mr. McRae advised that staff is soliciting the market to make sure that those opportunities are included as one of the options for comparison. He said that the City was participating in a process led by the Arizona Electric Power Cooperative, referred to as the joint facilities resource project, which addressed long-term generation, and he added that staff is focusing on 2009 by issuing solicitations to area suppliers. He advised that the City of Mesa has very good transmission contracts that will meet the City's customers' requirements and that the transmission limitations projected for other utilities do not impact Mesa. Mr. McRae further advised that the City has long-term, fixed-price transmission contracts.

Responding to a question from Committeemember Whalen regarding the 10 megawatts generated locally, Mr. McRae advised that the issue of retaining or divesting the units would be included in the study.

Mr. Plumb advised that the City paid \$6 million for the 16 units, which generate approximately 10 megawatts for use in peak periods. He advised that one of the units was modified when the catalytic converters failed, and he reported that under the current environmental permit, that unit can be operated for eight hours a day. Mr. Plumb noted that the remaining units are not being operated except for maintenance purposes.

Chairman Jones thanked staff for the presentation.

4. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 11:35 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 19th day of October 2006. 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 (7)