

UTILITY COMMITTEE MINUTES

January 30, 2001

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 30, 2001 at 4:00 p.m.

COMMITTEE PRESENT

Mike Whalen, Chairman
Bill Jaffa
Claudia Walters

COUNCIL PRESENT

None

OFFICERS PRESENT

Mike Hutchinson

(Committeemember Walters excused Chairman Whalen from the beginning of the meeting. Chairman Whalen joined the meeting at 4:31 p.m.)

(Items on the agenda were discussed out of order but for purposes of discussion will remain as listed on the agenda.)

1. Discuss and consider a revision to the Enron gas contract.

Utilities Manager Dave Plumb provided the Committee with an overview of this agenda item and referred to overhead charts/graphs depicting the increasing/decreasing costs of natural gas. Mr. Plumb explained that the City of Mesa's current natural gas contract is with Enron North America (Enron) and the term of the contract is July 2000 through July 2001. An estimated 50% of the monthly volumes are at the fixed price of \$3.74/Dkth and the remaining volume is at the market monthly index plus \$0.03 (for January 2001, the cost is \$8.83). Mr. Plumb stated that the contract mix provides the City with a firm, reliable, full requirements natural gas supply at prices well below market levels.

Mr. Plumb commented that prior to contract end, Enron typically approaches the City with a cost proposal for entering into a new contract. Mr. Plumb informed the Committee that in 1998 the City issued an RFP seeking gas supply proposals and explained that at the time a number of entities were issuing tax exempt debt, not using the City's credit rating, and aggregating their supplies and forming entities, such as the Municipal Gas Authority of Georgia. The entities were pre-paying for the gas supply and then selling to their customers at a discounted rate. Mr. Plumb said that staff issued the RFP hoping to receive proposals from various entities which the City could then join with and aggregate supplies and pass on discounted rates to our citizens. Mr. Plumb reported that interest rate swaps were involved and the IRS stated the opinion that arbitrage was occurring and indicated their intention to investigate. Mr. Plumb said that this action stopped the tax exempt financing and the City once again received a contract proposal from Enron. The current contract runs through

July 1, 2001 and staff is now seeking direction and guidance from the Committee and Council relative to developing parameters within which staff may negotiate an agreement.

Mr. Plumb commented that the difference between the fixed price and market price index has value to the City as a negotiating mechanism to "beat the market" after these contracts have expired and said it may be advantageous to use the equity to restructure the City's current contract. By restructuring prior to the end of the contract, the City would avoid going back to purchasing "at market" during a time of extreme volatility and would guarantee the City's ability to purchase below market after the current contract expires.

Mr. Plumb reported that Enron has offered some possible structures to extend to Mesa a below-market gas supply, which hopefully will allow the City to weather this period of volatile prices. The proposals are for discussion only to facilitate the negotiation, preparation and execution of a definitive agreement. The numbers may vary by a few cents depending on market conditions and timing of the definitive agreement.

Mr. Plumb outlined the four proposals submitted by Enron and stated the opinion that Enron Option One, which states that "the fixed price of \$3.74 becomes \$4.25 beginning February 2001 through July 2001. Extend the contract out six months with total load at Index minus \$0.22 beginning August 2001 through January 2002" represents the best offer for the City of Mesa among the four submitted. Mr. Plumb indicated staff's intention, based on Committee/Council direction, to negotiate with the contractor based on the numbers included in this option.

It was moved by Committeemember Walters, seconded by Committeemember Jaffa, to recommend to the Council that staff pursue a contract with Enron based on Option One as recommended and that staff be directed to continue negotiations with that company to ensure that the contract amount will not exceed a \$0.50 increase and will have a total load at Index minus \$0.22.

Carried unanimously.

2. Discuss and consider production and distribution of a Consumer Confidence Report Brochure.

Utilities Manager Dave Plumb also addressed the Committee relative to this agenda item and noted that the 1996 Safe Drinking Water Act Amendments require that all water suppliers produce and distribute an annual consumer confidence report on the quality of their drinking water. In Mesa, it is referred to as a "Water Quality Report." Mr. Plumb stated that in 1998, staff received input from the Council relative to the costs associated with the proposed report (.36 per brochure) and, in response to those concerns, produced a much less expensive version containing just the required information.

Mr. Plumb commented that the law does not dictate what the report must look like, only that it contain the required information and discussed staff's concerns that providing only the basic information in the brochure results in the City losing an opportunity to reach out to the citizens and educate them about other water-related topics.

Discussion ensued relative to topics that staff would like to include in the brochure, staff's opinion that the appearance of the report is also a determining factor in whether or not the report will be read, the fact that 210,000 English and 6,000 Spanish copies of the report are produced and the Spanish copies are distributed mainly through the grade schools while the English copies are mailed, the fact that the cost to meet the minimum requirements average approximately \$50,000 and staff's opinion that the benefits far outweigh the slight cost increase associated with producing an attractive, informative brochure.

Mr. Plumb discussed proposed costs for three alternative proposals and noted that the least expensive brochure, which includes only the basic information, can be produced for .23 per unit and that for .09 cents more (total cost of .32 cents per unit) the City can produce a full-color version that not only meets the Federal requirements but educates the citizens as well.

Mr. Plumb informed the Committee that staff recommends approval of Sample No. 3, a full-color design which includes required information as well as frequently asked questions, a water conservation message, information on water hardness and more at a cost of .32 cents per unit. Mr. Plumb added that in terms of production time, staff can move forward with Sample No. 3 very quickly since the design work has already been completed. Mr. Plumb stated that it is staff's goal to have the reports in the hands of Mesa residents by the end of March (before the winter residents leave Mesa) to ensure that the reports are delivered rather than discarded by the Post Office.

Committeemember Walters spoke in support of staff's recommendation regarding Sample No. 3 and said that the proposed brochure will address a number of questions that are frequently asked by the citizens. Councilmember Walters added the opinion that the proposed brochure should be printed even if just this once so that staff can solicit citizen input and determine whether the benefits outweigh the costs.

It was moved by Committeemember Walters, seconded by Committeemember Jaffa, to recommend to the Council, that staff's recommendation relative to producing the City's upcoming Water Quality Report based on Sample No. 3 (a full-color design which includes all required information, responds to frequently asked questions, contains a water conservation message and information on water hardness and more) be approved.

Carried unanimously.

3. Hear an update on EPA arsenic standards for water.

Assistant Utilities Manager Bill Haney addressed the Committee relative to this agenda item and provided brief background information relative to this issue. Mr. Haney said that back in the 1940's the public health organizations developed an arsenic level in drinking water of 50 parts per billion (ppb). The Environmental Protection Agency (EPA) in 1975 adopted that number and since that time discussions have occurred regarding lowering that number based upon health effects in some nations overseas, primarily in Europe. Mr. Haney said that the EPA proposed a limit of 5 ppb which was exceedingly low, and following public input regarding the proposal level later revised their recommendations to reflect that they still recommend 5 ppb but would take public comments on 3, 10 and 20 ppb as well. An extension was granted until this coming summer to issue comments and a final rule on the levels/limits of arsenic in the water.

Mr. Haney said that four days prior to President Bush taking office, on January 16, 2001, the Clinton administration, under the authority of the EPA Administrator, decided to sign into rule an arsenic level of 10 ppb. In order for this to become rule, it has to be published in the Federal Register. On January 20, 2001, President Bush issued an Executive Order halting the publishing of all new rules to be implemented in the Federal Register. The EPA Administrator's office ignored the Executive Order and published the rule in the Federal Register on January 22, 2001 and at this point in time, it is unclear exactly where we stand on this issue. Mr. Haney stated the opinion that this issue will be tied up in court over the next few years as a result of lawsuits and said that once they are filed, everything will be placed on hold.

Mr. Haney reported that the American Waterworks Association Counsel has indicated that the action taken by President Clinton and the EPA Administrator probably will not be changed, however, various parties involved in this issue are preparing to file law suits in court. The environmental community is seeking 3 ppb but will

compromise at 5 ppb; the utility industry is seeking 20 ppb, which staff believes is a more appropriate number.

Discussion ensued relative to the fact that at a level of 50 ppb, arsenic is not toxic in any way, shape or form (in an acute form) and that is the category in which the City of Mesa falls; the fact that the EPA is basing their studies and limits on other studies that were conducted in the Republic of China at a level of 180 ppb versus the 10 ppb; the fact that at the 180 ppb there were serious health impacts, the fact that based on the lack of data, the EPA chose to be safe rather than basing their decision on "good science," which their own rules require, and the fact that a multitude of lawsuits will be filed on absence of "good science."

Mr. Haney commented on the fact that surface water contains exceedingly lower levels of arsenic, less than 3 ppb and added that arsenic levels in the City's wells vary from well to well but if the arsenic limits were set at 3 ppb, 33 of 36 wells would be impacted, at 5 ppb, 28 wells would be impacted, and at 10 ppb, seven wells would be impacted. Mr. Haney reported that at 20 ppb, the City would have one well impacted and staff would recommend that it be abandoned. The City's current arsenic level is 50 ppb and reiterated that it will be lowered to 10 ppb if the EPA prevails on the new rule.

Mr. Haney discussed impacts on the City of Mesa and said that 36 wells are located throughout the City and a limit of 10 ppb, would only impact 7 of those 36 wells. Mr. Haney added that the financial impact on the City based on capital costs that would have to be expended within five years (compliance deadline) to bring the wells into compliance would amount to approximately \$15 million on the low end and \$28 million on the high end.

Mr. Haney stated that the worse case scenario for Mesa would be that everything has to be on line within five years and said that based on that happening, Mesa would still have two years before it would have to begin budgeting and designing facilities.

Committeemember Walters thanked Mr. Haney for his update.

4. Hear an update on the use of fuel cells.

Utility Manager Dave Plumb stated that Assistant Utilities Manager Jerry Paulus had intended to update the Committee on this issue but was unable to attend the meeting. Mr. Plumb provided the Committee with a brief overview of this agenda item and said that the fuel cell that is currently operating within the City's utility billing department has been running for 90 consecutive days without any outages and is providing high quality, reliable power to the building. Mr. Plumb also discussed the City's involvement in implementing the two fuel cells at the Marana Training Facility of the Army National Guard and noted that the City will be reimbursed for the costs associated with this project. Mr. Plumb said that the used fuel cells, which were obtained at no cost other than shipping, are being installed and should be on-line within the next week or so. Mr. Plumb said that City staff has gained a wealth of knowledge and experience by participating in this project and said that the skills will benefit Mesa in the future.

Discussion ensued relative to the fact that efforts to develop a smaller, home-size fuel cell are continuing, the fact that the smaller units, with a slight reduction, will be able to run cars, the fact that staff is preparing for the possible leasing/sale of fuel cells in the future and remaining current on new technology in this area, natural gas and the economic benefits that the City will realize from its sale, the fact that natural gas exploration is increasing and Mr. Plumb's opinion that costs will be lowered as supplies are increased.

Committeemember Walters thanked Mr. Plumb for his input.

5. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 5:04 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 30th day of January, 2001. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2001

BARBARA JONES, CITY CLERK

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