

UTILITY COMMITTEE MINUTES

May 15, 2003

The Utility Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on May 15, 2003 at 10:55 a.m.

COMMITTEE PRESENT

Janie Thom, Chairman
Kyle Jones
Mike Whalen

COUNCIL PRESENT

Rex Griswold

OFFICERS PRESENT

Debbie Spinner
Paul Wenbert

1. Discuss and consider a request for utility service outside of Mesa's corporate limits for the northeast corner of Broadway and Ellsworth Roads.

Deputy Building Safety Director Jeff Welker addressed the members of the Committee relative to this agenda item. He referred to the May 7, 2003 Utility Committee Report, copies of which were provided to the members of the Committee, and provided a brief overview of the issue. (See Attachment)

Mr. Welker reported that a request has been received from the prospective property owner of land located on the northeast corner of Broadway and Ellsworth Roads for water services to a CVS Pharmacy development located outside of Mesa's corporate limits. He explained that the proposed development site is the combination of ten currently existing mobile home spaces, and that although the mobile home spaces have historically received water service from the City of Mesa, because of the proposed combination of parcels, the establishment of new lot lines and change of use (from single family residential to a commercial development), the development is not eligible to receive City utility services. Mr. Welker noted that the applicant is willing to be annexed into Mesa; however, due to the fact that the properties that exist between this site and the City's corporate limits include several residential properties, the applicant has made a good faith effort to contact 183 property owners, but has received only minimal response regarding the matter.

Mr. Welker concluded his remarks by noting that CVS has developed many quality projects in Mesa and stated that if the proposed development site were located within the City's corporate limits, it would be consistent with the General Plan and most likely approved. He added that because the property does not comply with the terms and conditions of City Ordinance No. 3880, staff does not have the ability to grant any leeway and has no recourse but to deny the applicant's request for utility services.

In response to a question from Chairman Thom, Mr. Welker clarified that Mesa's current water service to the mobile homes is the result of the City's purchase of the Desert Sage Water Company. He stated that per Ordinance No. 3880, the City is required to provide service to the location as it is presently developed.

Committeemember Whalen declared a potential conflict of interest and said he would refrain from discussion/participation relative to this agenda item.

Jason Morris, an attorney representing the applicant, addressed the Committee and highlighted a series of reasons why, pursuant to Section 17C of Ordinance No. 3880, the Committee should grant an exception to the applicant's request for utility services. He stated that the mobile home spaces already receive Mesa utility services and that the proposed redevelopment project will be less intensive in terms of utility usage; that the applicant is willing to be annexed into Mesa, but due to the past opposition of property owners residing between the property and the nearest City boundary to the west, there is no feasible annexation strategy available to the applicant to resolve the issue; that the applicant has made significant neighborhood outreach efforts, despite an extremely low response rate; that the applicant has developed projects within the City of Mesa in the past and is comfortable with Mesa's development guidelines; that the applicant has met with Planning staff on two occasions to ensure that the appearance, orientation and quality of the building adhere to the City's development guidelines, and that the development will not have a negative impact on City retail sales, given the size of the County Island and the fact that all of the trade area and the competing commercial establishments are also located within the County Island.

Mr. Morris displayed a series of photographs depicting the existing mobile home spaces and commented on their deteriorating condition. He noted that the proposed redevelopment will take place within a portion of Mesa's general planning area and that it will greatly enhance the site and assist in the rehabilitation of the area.

Mr. Morris thanked the members of the Committee for the opportunity to provide input on this issue and urged them to recommend to the full Council that the property be exempted from Ordinance No. 3880 and provided City of Mesa utility services.

Discussion ensued relative to the fact that the applicant and Planning staff have met relative to the layout of the development site and that staff was very complimentary of the applicant's efforts and site plan; that the applicant intends to comply with the City's design guidelines to the greatest extent possible, and in the case where the applicant asks for a variance, the fact that Planning staff will have the opportunity to comment on the applicant's zoning case relative to the building elevation.

In response to a question from Committeemember Jones, Mr. Welker explained that if the applicant proceeded with the development of the CVS Pharmacy in the County, the City of Mesa would be entitled to collect impact fees for water, wastewater, Fire and Police, as well as fees associated with constructing public improvements. He noted, however, that the City would not be authorized to collect building permit and liquor license fees or sales tax.

In response to Mr. Welker's comments, Mr. Morris advised that in an effort to address staff's concerns, the applicant is willing to enter into a development agreement or a private agreement

with the City for certain "one time" development related fees (\$46,040.00). He added that staff also calculated that the City would lose approximately \$15,000 annually in sales tax revenue and noted that this item is somewhat more problematic with regard to how the funds would be collected, accounted for and paid to the City due to the fact that CVS Pharmacy will take fee title to the property and own it outright as opposed to the applicant.

Committeemember Jones commented that in light of the applicant's willingness to pay the City certain "one time" development related fees, as well as his efforts to notify the adjacent property owners of the proposed project and to solicit their input, in his opinion, granting an exception, pursuant to Section 17C of Ordinance No. 3880, is appropriate in this case.

It was moved by Committeemember Jones, seconded by Chairman Thom, to recommend to the Council that Alternative No. 2 (Via Section 17C of the "Terms and Conditions for the Sale of Utilities," that the property be granted connection to Mesa's water and sewer systems provided the site is developed in compliance with all of Mesa's development regulations, execution of a Utility Service Agreement, dedication of necessary public rights-of-way and payment of all applicable City fees and charges), be approved.

Upon tabulation of votes, it showed:

AYES - Thom-Jones
NAYS - None
ABSTAIN - Whalen

Chairman Thom declared the motion carried unanimously by those voting.

Chairman Thom thanked everyone for the presentation.

2. Adjournment.

Without objection, the Utility Committee Meeting adjourned at 11:11a.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 15th day of May 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

Utility Committee Report

Date: May 7, 2003
To: Utility Committee Members
From: Paul Wenbert
Subject: **UTILITY SERVICE OUTSIDE MESA'S CORPORATE LIMITS
"NEC BROADWAY & ELLSWORTH
PARCELS 220-34-064 THROUGH 220-34-073"**

Purpose and Recommendation

The purpose of this report is to provide the Utility Committee with staff's formal recommendation regarding a request from a prospective property owner of the Northeast Corner of Broadway & Ellsworth -Parcel 220-34-064 through 220-34-073 (see attached letter Exhibit A) for water services to a CVS pharmacy development outside Mesa's Corporate Limits.

Staff recognizes the hardship this development is faced with in obtaining annexation. It is noted that the proposed project is in compliance with Mesa's General Plan and would be considered acceptable in other locations within Mesa's City Limits. Nevertheless, Ordinance 3880 ("Terms and Conditions for the Sale of Utilities") clearly prohibits serving commercial developments outside Mesa's corporate limits. Therefore, staff has no option other than to recommend denial of this request for service.

Background

The proposed CVS Pharmacy development site, noted in Exhibit A as the "Northeast Corner of Broadway & Ellsworth Parcel 220-34-064 through 220-34-073, is the combination of 10 mobile home spaces. Existing water lines and services in the area are shown on Exhibit B. Although the mobile home spaces have historically received water service from the City of Mesa, this proposed combination of parcels, establishment of new lot lines and change of use (from single family residential to a commercial development) results in disqualification of this development from receiving utility service by the City of Mesa. Staff and the City Attorney's office concur that the property must comply with the terms and conditions set forth in Ordinance 3880. The described property is not contiguous with Mesa's Corporate Limits (see Exhibit C) and will require additional property owner's concurrence to achieve annexation. The background information and rationale for this conclusion was provided in a letter to the applicant by the City Attorney's office in February 2003 (see Exhibit D). The Developer has notified adjacent property owners of the proposed project and asked for their input. A copy of the Neighborhood participation plan report is attached (see Exhibit E).

Discussion

Via Ordinance 3880, Mesa has established the "Terms and Conditions for the Sale of Utilities". The ordinance states, "All commercial, industrial, multiple residential, subdivided residential and/or other comparable zoned parcels of real property located outside Mesa's corporate limits shall be annexed into the City corporate limits before connecting to and receiving water and/or wastewater service from the City".

Below is a table that estimates the revenue that Mesa would typically receive if this development was constructed within Mesa's city limits.

POTENTIAL REVENUE

One Time Fees

Impact Fees	=	\$24,500.00
Building Construction Fees	=	\$7,600.00
Sales Tax on Building Construction	=	\$4,940.00
Right of Way and Utility Construction Fees	=	\$9,000.00
Liquor License		<u>\$2,650.00</u>
Total One Time Fees		\$46,040.00

Annual Revenue

Sales Tax	=	\$14,000.00
Liquor License	=	\$550.00
Water, Sewer and Refuse Fees	=	<u>\$1,700.00</u>
Annual Revenue		\$16,250.00

The City Council intended the amendments contained in 3880 to level the "playing field" such that developments within Mesa's corporate limits did not have to compete at an economic disadvantage with similar developments outside the city limits. As outlined in ordinance 3880, new developments requesting water and wastewater utility services must be annexed into the City of Mesa prior to receiving said services.

Alternatives

1. Support staff's recommendation as contained in this report

2. Via Section 17C of the "Terms and Conditions for the Sale of Utilities", the Utility Committee could recommend to the full City Council that this property be granted connection to Mesa's water and sewer systems provided the site is developed in compliance with all of Mesa

development regulations, execution of a Utility Service Agreement, dedication of necessary public rights-of-way and payment of all applicable City fees and charges.

3. Via Section 17C of the "Terms and Conditions for the Sale of Utilities", the Utility Committee could recommend to the full City Council that this property be granted connection to Mesa's water and sewer systems without any specific conditions.

Fiscal Impact

Alternative No. 1 - It maintains compliance with Mesa's Ordinance ensuring that new developments receiving City of Mesa utilities are within the City limits and developed to Mesa established standards.

Alternative No. 2 - Upside: It creates an opportunity for Mesa to receive monthly water and sewer utility service revenue (\$1700.00 annually) and certain "one time" development related fees (\$46,040.00) from this property. Downside: It creates a scenario whereby this "county" development competes with Mesa developers for retail sales. This clearly could result in a potential loss of sales tax for Mesa.

Alternative No. 3 - Upside: It creates an opportunity for Mesa to receive monthly water utility service revenue (\$1700.00 annually) from this property. Downside: It creates a scenario whereby this "county" development competes with Mesa developers for retail sales. This clearly could result in a potential loss of sales tax for Mesa. It also creates a scenario whereby this competing developer has an advantage over similar developers located in Mesa due to the reduced costs of developing to Maricopa County vs. Mesa standards (i.e. landscaping, signage, road improvements, etc.) and certain "one time" development related fees (\$46,040.00).

Concurrence

Staff Originator - Beth Hughes-Ornelas
DEVELOPMENT PLANNING ANALYST

Jeff D. Welker
DEPUTY BUILDING SAFETY DIRECTOR

Jack Friedline
DEVELOPMENT SERVICES MANAGER

Joe Padilla
DEPUTY CITY ATTORNEY

Paul Wenbert
DEPUTY CITY MANAGER