

**THE WORKSESSION
OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA
HELD MAY 21, 2016 AT 9:00 A.M.
AT CITY HALL, 120 W. 6TH STREET, BENSON, ARIZONA**

CALL TO ORDER:

Mayor King called the meeting to order at 9:50 a.m. with the Pledge of Allegiance.

ROLL CALL:

Present were: Mayor Toney D. King, Sr., Councilmembers Pat Boyle (arriving late), Jeff Cook, Joe Konrad, David Lambert and Chris Moncada. Absent was: Vice Mayor McGoffin.

NEW BUSINESS:

1. **Worksession to discuss the status of the proposed Development Agreement for the Villages at Vigneto project; review the basis for entering into the agreement and the proposed agreement itself**

City Manager Bill Stephens introduced the worksession by commenting that City staff negotiated the proposed Development Agreement (DA) with El Dorado as per Council's direction. Mr. Stephens then stated the development of the property is currently the subject of an existing development agreement dating to when the property was being developed as Whetstone Ranch and Staff recommends that the Mayor and Council essentially terminate the existing development agreement as to all affected property owned by El Dorado Benson and draft a new development agreement, adding the included draft development agreement is intended to do just that. Mr. Stephens then stated the Vigneto project is projected to include a mix of 28,000 homes as well as commercial and recreational development on 12,167 acres; the property contains property sensitive to the environment, and approximately 3,000 acres of open space has been identified for the Project. Mr. Stephens stated the proposed development agreement broadly defines certain uses that may be developed on the property, defines infrastructure that will need to be constructed as the property is constructed in phases, and defines monetary contributions that will need to be paid to the City to hire, train, and supplement the City's staff of and equipment for its first responders until projected revenues from residents can sustain the costs of doing so. Mr. Stephens stated Staff will review with Mayor and Council the substantive statutory requirements for adopting a development agreement, address principal provisions in the agreement, and be prepared to address questions about the proposed agreement, adding representatives of El Dorado Benson will also be present and prepared to address agreement points or answer questions.

Mayor King thanked City staff for creating the document for their review and asked who would be presenting. City Manager Bill Stephens replied that multiple people would be speaking but the program would begin with City Attorney Paul Loucks.

Mr. Loucks explained the worksession as an opportunity to get an overview of the purpose of the development agreement and to understand some of the main points that had been negotiated. He stated the Council should not presume that this worksession is the only time they will view the document and that the presentation and discussion should trigger questions that can be answered in the future.

Mr. Loucks reiterated Mr. Stephens' statement, explaining that Council had directed Staff to negotiate a development agreement with El Dorado regarding the Villages at Vigneto project. He stated Staff understood this direction to ensure that the development pay for its own costs such as infrastructure and city services that are to be located and used fairly far from the existing city center. He specifically noted that first responder times are difficult to meet that far from existing services so first responder provisions are included in the development agreement document.

Mr. Loucks provided some background on the project and the document, noting there is already an existing development agreement on the property from when it was to be developed as Whetstone Ranch. He commented that both Staff and the developer El Dorado prefer to terminate the existing Whetstone Ranch development agreement and create a new agreement. Mr. Loucks did clarify that the termination of the Whetstone Ranch agreement and adoption of a new development agreement would apply only to property owned by El Dorado; the third parties owning properties in Whetstone Ranch would continue to be covered by the existing Whetstone Ranch development agreement.

Mr. Loucks then noted that A.R.S. §9-500.05 defines what types of issues can be addressed in a development agreement. He noted that the statute allows the caveat of “any other matters related to development of the property” so multiple issues are addressed in the document that are not specifically noted in statute. They are:

- Term of the agreement,
- Permitted uses, density, and intensity
- Construction Phasing
- Construction of Public Infrastructure
- Reimbursement for Construction of Public Infrastructure
- Financing of Public Services
- Any other matters

Term of the agreement, permitted uses, density, and intensity

The Term of the proposed development agreement is 40 years. Though the developer hopes to complete buildout within 20 years, Mr. Loucks noted that Staff questioned the feasibility of that schedule and built in extra time. He noted that the permitted uses, density and intensity of land use are governed by the Community Master Plan (CMP), a separate document that is incorporated by reference into the development agreement. Mr. Loucks noted that the last version of the CMP had not yet been finalized, acknowledging that could be a concern for Council. Mayor Toney King asked Planning Technician Michelle Johnson if the CMP document was on the last chapter of revisions, which she confirmed was the case. Mr. Loucks noted that the permitted uses included 28,000 residential units on the 12,000+ acre property plus commercial and another accompanying development such as recreation centers and parks.

Construction Phasing

Mr. Loucks noted that Section 4 of the development agreement addresses construction issues. He noted that the CMP specifies the process for submitting construction and infrastructure documents such as drainage, wastewater and streets. Mr. Loucks referenced the different zones within Vigneto’s boundary, referred to as Planning Units. He noted that the DA does not require these Planning Units to be developed in a specific sequence. He also confirmed that construction refers to the construction on individual parcels in addition to infrastructure improvements.

Construction of Public Improvements

Mr. Loucks clarified that the heading of public improvements does not mean public infrastructure, but other publically accessible and used areas such as parks and recreation facilities that are not owned by the City and utilities that are not owned by the City. He also noted that the developer can withhold turning over streets to the City and keep them private, especially if they are gated. (Mr. Loucks noted that traffic calming measures are proposed for public rights-of-way.)

Construction of Public Infrastructure

Mr. Loucks noted that street standards and profiles have been discussed between Staff and El Dorado, with agreement on standards that differ from what currently exists in Benson. He specifically noted that proposed collector and arterial streets will have adjacent pathways. He further stated that El Dorado is willing to make off-site improvements to Post Road by chip sealing approximately 3 miles of distance outside their property boundary, from the eastern edge of their property to SR80. The final alignment of Post Road is unknown as El Dorado will need to coordinate with the County and property owners.

Water

Mr. Loucks acknowledged that the development agreement does not go into detail as far as pipe sizing, but does discuss delivery to the property and process by which the City will take over ownership and operation of the water system.

Reclaimed Water

Mr. Loucks stated the City wants reclaimed water to refresh the aquifer. He explained the development agreement Section 5.6.3 gives El Dorado the right of first refusal that water-the developer has first rights to use any reclaimed water and any remainder is given to the City.

Councilmember Cook questioned the basis of reclaimed water allocation to which Mr. Loucks responded that it is an annual basis; that every year the developer can decide to accept or not accept their prior year's allocation plus any additional water that was reclaimed. He used the example of 100 acre feet of reclaimed water of which the developer accepted 90 acre feet, leaving the City with 10 acre feet. Upon the next year, the developer can again request 90 acre feet plus decide whether or not to accept the reclaimed water generated over and above the original 100 acre feet. The City retains 10 acre feet.

Mr. Loucks stated the benefit of reclaimed water is that Benson expects to draw less water from the aquifer and also noted the development agreement Section 5.6.8-9 requires the City to work with the developer to reevaluate the water supply over the years.

Wastewater

Mr. Loucks stated the existing wastewater plant was built for 1 million gallons per day. He noted that the plant has never been in operation due to lack of flow and the City has been vault and hauling the waste to the sewer treatment plant. He commented that while the developer may continue with the vault and haul practice, the development agreement also gives the developer the option to build a bypass line from the plant to a manhole on Jennella to bring the waste to the sewer treatment plant. Mr. Loucks noted that the plant will need to be expanded in the future.

Councilmember Moncada asked if the bypass would be a permanently installed line to which Mr. Loucks replied that the design is unknown but that he doesn't see it as an above ground line. He stated that the option of a bypass line grants the developer more flexibility as to the timing of the treatment plant expansion. Mr. Loucks also stated the owner would turn the bypass line over to the City so the City could use it to transfer reclaimed water from Vigneto into lower Benson. Mr. Loucks also pointed out that the development agreement allows El Dorado to be reimbursed via connection fees for plant expansion construction costs if third parties are allowed to use the capacity El Dorado built.

Returning the discussion to reclaimed water, Councilmember Moncada asked what would happen if the amount from the prior year cannot be supplied. He noted that inability to provide enough reclaimed water had caused problems for the City before. Mr. Loucks acknowledged that the amount of reclaimed water will vary seasonally and annually, with more reclaimed water usually generated in the winter than in the summer, but the commitment is based on availability. Mayor King asked about any penalties the City would be liable for if a specific amount of reclaimed water could not be supplied. El Dorado Attorney Dana Belknap responded that reclaimed water delivery to Vigneto is subject to availability, per Section 5.6.3, and that there are no penalties.

Reimbursement for Construction of Public Infrastructure

Mr. Loucks opened this discussion by confirming there is no reimbursement proposed for roads, streets or curbs. He noted that the City proposes to set and collect a capital fee that will be returned to the entity that performed the infrastructure construction-expected to be either the developer or the Community Facilities District (CFD). This fee is incorporated into the total rate that also includes operation and maintenance costs, but only the specified capital fee can be used to reimburse the developer. When the developer is fully reimbursed, the capital fee then goes to the City for future capital improvement needs.

Councilmember Cook asked how the amount of \$50 was arrived at in Section 5.1.8. Mr. Loucks responded that \$50 is an estimated amount, but the final amount will be determined as the system is improved and City Council determines the rate to cover costs. Mayor King asked who receives the funds with Mr. Loucks reiterating that the entity who performed the construction receives the funds, either the developer or the CFD. Councilmember Moncada questioned whether or not the fee applied only to properties within Vigneto to which Mr. Loucks responded that is the intent, but City Council could place the fee on everyone. El Dorado Attorney Dana Belknap interjected that El Dorado is not asking for the fee to be placed on everyone but only on residents within the property as none of the costs referenced in the development agreement fall on existing Benson residents. Mayor King clarified that existing Whetstone residents would remain under the existing Whetstone development agreement. Councilmember Cook asked if any City codes or ordinances need revision to allow different rates in different parts of town to which Mr. Loucks replied that no statute requires a uniform rate across the entire town, but a rate study would need to be performed to determine the rates for each area. He believes the City would fall into two rate structures-Vigneto and the remainder of Benson.

Finance of Public Infrastructure

As has been discussed in the past, Mr. Loucks noted there are ten proposed districts but the precise configuration of district boundaries is unknown. He expects that 7 CFD districts will align with Planning Unit boundaries.

First Responders

Mr. Loucks commented that statute does NOT require city services such as first responders to be addressed in the development agreement. He noted that no effective first responder services currently exist to serve the property, which hasn't been an issue since there are relative few people in the vicinity. He stated that the development agreement deals with facilities, equipment and personnel to serve the future residents.

Facilities:

Mr. Loucks pointed out that the owner agreed to install a temporary facility to be used by both Fire and Police. A permanent facility will be constructed when the City thinks it is needed based on the rate of construction, expected to be the 2,500 certificate of occupancy. He confirmed that there will be a total of two permanent Fire facilities, plus a Police facility located in the commercial area. The Police facility will be constructed as a shell building only since it is unknown what will be needed.

Equipment:

Mr. Loucks noted that the developer will pay for one new fire apparatus since the City does not expect to be able to bear that cost in order to provide fire service.

Personnel:

Mr. Loucks commented that there will be phased payments for three years to cover the costs of Fire personnel. Funds will also be provided to the Police Department that can be used for either vehicles or officers, with the expectation that 4 additional officers with vehicles will be needed to serve Vigneto. Councilmember Moncada asked about ambulance service- who would provide service and where it would be located. Mr. Loucks responded that ambulance service can be provided for privately or via the Fire Department. Since the current ambulance service is private, it is not addressed in the development agreement. Mayor King interjected that the hospital hopes to build a new facility so they would likely provide ambulance service.

Councilmember Cook asked if the figures in Section 5.9.3 are sufficient to pay for 12 full-time firefighters. Mr. Loucks responded that the figures are based on projected personnel costs. He pointed out that Section 5.9.6 allows the City to delay the start of payments because it is unknown how much firefighters will cost in the future but also unknown when they will actually be needed. El Dorado Attorney Dana Belknap commented that during the first year of vertical construction, it is expected the funds will be used to hire and train personnel to the level of Captain. Additional personnel will be trained in years 2 and 3 with the Captains themselves available to provide fire service. She noted that things begin to slow in year 4 with

hope that Vigneto will have enough residents to pay for the firefighter salaries. She is in agreement with Mr. Loucks that the City does not need to hire all 12 personnel within 3 years nor begin with 4 Captains. She confirmed the City can delay accepting money until the development requires that level of protection with the goal of eventually supporting the salaries.

Mayor King asked Police Chief Paul Moncada about his feeling in regard to the allowance made to the Police Department. Chief Moncada stated that he would have preferred to have seen amounts more comparable to the amounts given to the Fire Department, noting that salary increases will be similar. He acknowledged that the Fire Department is building a department from scratch, not simply enlarging an existing department, but expressed that the police ability to respond to the Vigneto area will be hindered with only 4 additional officers at Vigneto's cost compared to 12 people in the Fire Department. Chief Moncada stated his appreciation for what was offered in the development agreement but cautioned that the City will end up with additional costs beyond the 4 new officers to serve Vigneto and it will be up to the Council to figure out how to pay for those costs. He concluded by reiterating the Police Department and Fire Department have similar costs and that the 2,500 certificate of occupancy will effectively double the current population.

Mayor King asked how funds pass through special taxing districts and if those monies could be used to help pay for Police services in both in town and in Vigneto. Mr. Loucks explained that personnel and equipment costs were projected just for the Vigneto area of the City since that is what is covered in the development agreement. He noted that developer funding is needed up front, but will end and the tax revenues will have to pay for the services provided so the goal is to match the schedule of payments to the growing tax revenue. Mr. Loucks acknowledged that additional police officers will be needed for Vigneto but the goal is that Vigneto taxes will pay for those services.

Mayor King reiterated that he'd like the taxing districts to help the entire City so the City can continue to pay for additional personnel while waiting to ensure tax dollar contributions; he noted that he does not want to set the stage for failure in the areas of Police and Fire protection. Mr. Loucks reassured him that the developer is not trying to set the City up to fail, but they are aware they need these services for the protection of their property.

Mr. Loucks noted that applications for special taxing districts have not been received, but explained their purpose is strictly infrastructure and is not to pay for on-going services. He noted that the districts will pay for infrastructure like roads, taking on the debt, and then new residents will pay back that debt. He noted that the method of repayment is different, occurring over the life of a bond rather than an upfront fee upon property purchase, but the fact of repayment is no different from other developments.

Finance Director Dustin DeSpain stated that in the ability to slow payments from the developer was intentional, in case the rate of development slows, so the City does not have too many personnel for the City revenue. He noted the expected personnel and accompanying payments are based on residential certificate of occupancy issuance, not commercial development. He estimates that 1,500 residential certificates of occupancy will generate \$2.2 million in revenue at the current .58% property tax rate to help fund Fire and Police services. He noted that predicting sales tax revenue is difficult but estimates that 1,500 new residential units could generate \$9 million in sales tax revenue, though that amount will fluctuate. Since property tax is more stable and easier to project, he estimates that 1,500 homes are needed to sustain the services.

Mayor King questioned how many personnel would be needed because he'd rather not raise taxes. Mr. DeSpain replied that 12-24 additional staff could be necessary and that raising taxes would be difficult especially with the tax competition already in place with Cochise College and the school district. Councilmember Cook asked about using construction sales tax to which Mr. DeSpain replied that \$6,000 per home is estimated, but using construction sales tax to fund personnel is unwise because that tax will fall when the construction is complete. Mr. DeSpain suggested that construction sales tax monies be used for one time capital purchases, but not on-going costs, such as personnel costs.

Mayor King complimented Mr. DeSpain on separating out the various revenue streams rather than lumping them all together. He stated that new construction tax can hopefully be used to improve downtown Benson to bring the existing area up to par. Mr. DeSpain noted there are a few restricted revenues, namely the enterprise funds and HURF, whose monies can only be used for specific uses.

The Council took a brief recess.

Street Maintenance

Mayor King asked about street maintenance cost and responsibility. Mr. Loucks confirmed that both public and private streets will be located within Vigneto, with the City responsible for public streets. He noted that streets are designed for a 10-year lifespan so maintenance costs aren't expected for 7-10 years, giving the City time to build up a reserve. Mayor King stated he wants to make sure the City can afford to maintain streets through the development's lifespan so future Councils aren't upset with this Council.

Other Issues Related to Development

Parks

Mr. Loucks acknowledged that parks were addressed with the same broad level of detail as other issues in the development agreement, but more specific details regarding parks are available in the CMP. He noted that 120 acres are dedicated to become parklands, with at least one large park of 40 acres. He pointed out that this 40-acre park is unlikely to be developed all at once but is instead projected to be phased with the first 5 acres being developed with the first 2,500 certificates of occupancy and an additional 2 acres of park development for each succeeding 1,000 certificates of occupancy. Regional and neighborhood parks will also be developed.

Councilmember Konrad questioned if there were would be smaller parks available during the time the 5 acres is not available because it hasn't reach 2,500 certificates of occupancy. He also asked how many people would be present in 2,500 homes. Mr. Loucks responded that 5,000-7,000 people are expected in 2,500 homes. El Dorado principle Mike Reinbold commented that other facilities such as the recreation centers will be available. Mayor King suggested a small park being built in the meantime since the existing City parks cannot support more people during this waiting period. Mr. Reinbold stated the timing and acreage in the development agreement is minimum so it could be constructed at a different rate, knowing the amenities need to be on-site fairly early to attract buyers.

City Manager Bill Stephens interjected that the creation of recreation facilities will also be dependent on the demographics of the users, which are likely to be different from the existing Benson demographic. He noted that active adults may be interested in a ball league, but will more likely gravitate toward other sports. If only 25% of the development is aimed at families, then there would be relatively few kid-type uses. Mr. Stephens reiterated that the recreation facilities will be built to the user demographics, not to Benson's existing demographics.

Mayor King argued that even with only a 25% family demographic, that could be 17,000 more people, 3 times the amount of current people. Mr. Loucks reminded Council that neighborhood and regional parks would be developed within the housing so even if the large community park is not available, those smaller parks will be available. Mayor King expressed his concern that there are already not enough little league fields which require time to development, while soccer can be played anywhere.

Mike Reinbold reiterated that amenities will be demographic driven, with Vigneto constructing what buyers desire. His expectation is recreation centers and a golf course will be constructed first to attract buyers. He stated their goal is to get people to say "I want to live here because they have...." so El Dorado knows they need to construct the desired amenities. He also noted that amenities will be added to the Canyons and will continue to expand as growth occurs.

Councilmember Konrad commented that improvements to Lions Park can be made as revenues come in. Mayor King agreed, but stated the effort needs to begin now to put money aside so future Councils continue improvements. He stated that he doesn't want any new parents coming to Benson to get frustrated by the lack of parks. Mr. Loucks clarified that the parks under discussion will not be owned or maintained by the City, but that City residents will be allowed to use the parks, generally for free though with some charges for specific items, under the development agreement terms. He further stated that Staff has indicated they are aware that El Dorado will meet or exceed the standards in the proposed Parks, Trails, and Open Space (PTOS) Master Plan but there was some fear that a future party would be confused as to which standards would apply to Vigneto parks-the PTOS Master Plan or El Dorado's guidelines. Due to that potential, Mr. Loucks noted the development agreement clarifies that El Dorado parks standards, as described in the CMP, will apply per Section 5.11.

No Moratorium

Mr. Loucks explained Section 4.3 restricts the City's ability to declare a moratorium, limiting denial to if wastewater and/or water services are not available.

Additional Properties:

Mr. Loucks noted that El Dorado may buy additional land which would come under this agreement. Councilmember Moncada stated that if additional land doubled the size of the property, then the proposed development agreement wouldn't be sufficient to provide services. El Dorado Attorney Dana Belknap interjected that additional property does not automatically fall under the CMP so the zoning process wouldn't allow excessive development since zoning is a separate issue. Councilmember Moncada replied that he was more worried about Police and Fire needing funding to which Ms. Belknap responded that there is always negotiating power in zoning.

Mike Reinbold commented that El Dorado is only interested in a few parcels and that they would not likely cause a material impact. He noted any more properties would be added later and would require the CMP to be amended to include them. He stated the development agreement is for startup guidelines which will already be occurring when/if this additional land added. He also mentioned that the expected additional residences will be providing tax revenue to support additional service if new land is added. Ms. Belknap commented that she would fully expect adding a significant amount of acreage would open new discussions.

Mayor King stated the City can hold out on zoning if and when additional land is incorporated. Mr. Loucks reiterated that zoning is at the City's discretion but the CMP cannot extend beyond the existing property borders without an amendment because the document is essentially a rezoning. He noted that the development agreement gives the owner the right to include new land within the development agreement and there is no discretion for the City to object to that inclusion, but the City can always ask to renegotiate the agreement if more land is added. He further pointed out that the owner would still have to provide all infrastructure services. Mayor King expressed his opinion that if the City is not going to grant a rezoning or CMP amendment, then it brings the developers back to the table to renegotiate the development agreement.

Resident Andrew Abernathy was granted the floor and he expressed his opinion that by including all future properties into the development agreement, the City was assured how future property would be developed. He noted that including additional property under the development agreement already restricts the developer from changing what will become the existing standard that El Dorado and the City agree to and prevents any lower standards.

Timing of Acceptance of Improvements

Mr. Loucks explained that the various infrastructure components have different time frames to be turned over to the City for ownership and operation. He stated that the wastewater treatment plant will be turned over to the City after 6 months' operation (the original Whetstone agreement was 1 year after operation) but noted the construction of a bypass line would likely push back the operational date. Mr. Loucks stated

that streets are supposed to be accepted 60 days after completion. Councilmember Moncada asked if there was any method of avoiding future street problems such as the problems that occurred at Meritage Homes. Public Works Director/City Engineer Brad Hamilton replied that there is a 1-year warranty on all streets.

Returning to the discussion about adding property to the development agreement, Councilmember Cook pointed out that the City Council has no say under the terms of the development agreement because the authority to amend the development agreement to include that new land is given to the City Manager. He commented that the lack of a cap on how much property could be added by the City Manager makes him uncomfortable with granting that administrative authority. Mr. Loucks responded that the adoption of the development agreement is at Council's pleasure so if they are not happy with the clause, they can simply not adopt the development agreement. When Councilmember Cook asked if the mandatory inclusion of land could be changed to optional, Mr. Loucks replied that topic had not been discussed with El Dorado so he was unaware if they would be willing to change the clause. Councilmember Cook stressed that adding new land to the development agreement should be an option for the City Council to exercise or not. Mike Reinbold suggested a cap of no more than 20% additional land at the administrative level of City Manager with anything above 20% additional land going to City Council for potential renegotiation.

Councilmember Cook expressed concern about any administrative action they now agree on having the effect of binding future Councils. Mr. Loucks stated if Council agrees the development agreement is applicable to currently existing property, then it should be applicable to other properties. Councilmember Moncada concurred with Mr. Reinbold's suggestion that less than 20% additional property, approximately 2,400 acres, would go through the City Manager with additional land being greater than 20%, over 2,400 acres, go to City Council with the hopes that City Council will ensure sufficient revenues to cover costs of the additional land.

City Manager Bill Stephens suggested amending the language in Section 4.4.

Councilmember Konrad asked about putting financial stress on the front part of the process by having to pay future staff to renegotiate a development agreement that isn't too bad simply because land was added. Mayor King interjected that he agreed with the 20% limit and that the developer's need to rezone future land provides another chance for the City to ask for help or funding if tax revenues aren't available.

Councilmember Cook agreed that zoning powers provide an opportunity for the City, but stated the mandatory wording proposed in the development agreement creates a path that future Councils and Staff must follow regarding annexation without knowing what the situation will be or whether the next Councils would want to do that. He argued that including a mandatory clause cuts off the future Council's discretion to make their own decision when the time comes. Councilmember Moncada replied that every Council action binds future Councils.

Mike Reinbold stated the fact that having unzoned property covered by the development agreement isn't worth the price of the paper. He stated that until zoning is established, the land itself isn't valuable and the development agreement standards wouldn't really be applicable because there would be no development to follow those standards.

City Manager Bill Stephens clarified that the amended language would be make additional land mandatory as long as it's less than 20%. Mr. Loucks clarified that it would be a cumulative 20% cap. Mr. Stephens continued that anything beyond 20% would go to City Council. Mr. Loucks confirmed that City Council cannot contract away their ability to rezone property.

Councilmember Cook stated that if the potential properties were identified, he would be more inclined to support the additional properties clause. Mike Reinbold noted there are no costs to the clause except in capital improvement costs to bring the land to its final product in hopes of getting consistency. Councilmember Cook again stated he'd like to know where this acreage is coming from before this Council

agrees to bind a future Council. Mike Reinbold replied that the development agreement provides consistency over time, regardless of personnel change.

Mr. Loucks asked if the 20% cap and a map would be sufficient. Councilmember Moncada objected to a map identifying property since El Dorado may not be successful in acquiring the denoted property. Mayor King also objected on the grounds that current owners would raise the asking price if they knew El Dorado was interested in their property and the City should not be involved with determining land prices. Mike Reinbold suggested that land within 1 mile of the property boundary could be considered by El Dorado.

Mayor King stated current Council actions always bind future Councils-there is no way to prevent that though future Councils will still have tools to make changes, such as zoning power. He stated he was in agreement with the clause to keep any new property to the standards proposed in the development agreement. Councilmember Konrad further pointed out that a clause in the development agreement provides consistency for future City Managers so they also know what to expect.

Councilmember Cook asked Ms. Johnson if the development agreement would supersede the existing codes and regulations to which she replied the CMP takes the place of the existing zoning regulations. She commented the reason people go through the CMP process is to set their own development standards.

The Council recessed for lunch.

Landscaping Costs

Mr. Loucks stated that landscaping costs on the public rights-of-way may be performed by Vigneto so the City would reimburse Vigneto for that work. Councilmember Cook asked who performs what work. Mr. Loucks replied that Vigneto may have a higher standard of landscaping than what the City performs so the City will pay for work crews to the City's level of landscaping and El Dorado would be responsible for landscape costs beyond that. He noted that the City currently uses prison labor for landscaping so costs are minimal.

Councilmember Konrad noted the agreement states El Dorado will maintain the landscaping to City standards. Councilmember Cook noted that City landscaping is fairly easy to care for with some drip irrigation. He questioned if entering into the agreement would require the City to perform to the higher El Dorado standard, above what the City would normally install and care for. Mr. Loucks responded that landscape decisions will be made at the Planning Unit level to determine what the City's landscape standards actually are and use that standard to go forward in determining maintenance costs.

Dispute Resolution

Mr. Loucks noted the expedited process was agreed to as both parties understand the project is important enough that it should not be mired down in a lengthy resolution process. The clause limits exposure with the arbitrator only awarding specific performance outcomes (telling each party to do something) but no monetary damages.

No Development Fees

Mr. Loucks noted the City does not currently have the ability to impose development fees. Since the developer is building their own infrastructure, he explained that both parties felt there was no point in imposing fees, especially as there is only one off-site improvement (Post Road) under discussion.

Mr. Loucks concluded by stating that he and Staff took Council's direction to engage the developer and create a document that ensures the development pays for itself in both the short- and long-term. He did not claim to presuppose the document is 100% perfect as any changes would be Council's prerogative.

Questions

Councilmember Cook asked about setting rates for treated effluent. Mr. Loucks replied that Council will set a rate for reclaimed water per Section 5.6.2; however since the goal is to use reclaimed water instead of

groundwater, the rate will be for delivery and capital costs only and won't be a rate to sell the reclaimed water as a commodity. Mr. Loucks noted that most capital costs will occur on the wastewater treatment side to reach an A+ standard of treatment so the other capital costs include building the delivery system and the ongoing maintenance/replacement costs.

Mayor King asked if there were any more questions. He noted that the only change discussed and requested was the 20% cap for City Manager approval on additional land in Section 4.4.

Councilmember Cook commented that the infrastructure components the City has agreed to maintain-streets, sidewalks, landscaping, storm water retention and recharge basins- produce no revenue, but cost money to operate and repair. Mr. Loucks stated there will be improvements in common areas under HOA control, but at this time it's uncertain where any individual improvement will be built. Mayor King asked if monies collected from utilities when the rate is set, would go into the general coffers to help maintain those improvement areas. Mr. DeSpain confirmed that El Dorado will provide figures to the City to perform a rate study to create the appropriate rates to cover capital, maintenance and staff costs.

Mr. DeSpain discussed HURF funding, noting that funds are distributed by population. He pointed out that roads will be constructed to support construction use but the final lift of asphalt will not be laid until after construction is completed to avoid heavy truck traffic and stated streets are generally useable for 7-10 years after the last lift is applied. Councilmember Moncada asked if HURF funds can be carried over into future years to which Mr. DeSpain replied that funds can be carried over, but can only be used for streets. Mr. DeSpain also told Council that Arizona is moving in the direction of placing another tax on top of HURF, as other states have done in order to make up the difference of HURF shortfalls. Councilmember Cook asked about HURF figures in the proposed budget. Mr. DeSpain noted that \$400,000 is budgeted, with \$375,000 from HURF and \$25,000 needed to make up the difference for the increasing maintenance costs.

Councilmember Cook asked about other non-revenue producing departments the City may need to provide to Vigneto such as a library in Vigneto. Mr. Loucks said libraries had been specifically discussed with Vigneto and it was agreed they will provide their own on-site reading resources. Councilmember Cook then asked how many City departments would not be located on Vigneto property, noting there is no tourism, no library, and no parks and recreation. He questioned what else the City will need to pay for out of the general fund, other than streets and storm water. Mr. DeSpain added Police and Fire to the departments located on Vigneto that are paid for out of general funds, specifying that streets, the Police Department and the Fire Department are the biggest expenses. Mike Reinbold then pointed out that the City would have been responsible for parks and recreation under the Whetstone development agreement. Mr. Loucks stated that, under the direction of the City Manager, both revenue producing and revenue neutral costs to the City were considered in crafting the development agreement.

ADJOURNMENT:

The Council ended the worksession at 1:20 p.m.

Toney D. King, Sr., Mayor

ATTEST:

Vicki L. Vivian, CMC, City Clerk