

COUNCIL MINUTES

September 18, 2014

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on September 18, 2014 at 7:30 a.m.

COUNCIL PRESENT

Alex Finter
Terry Benelli
Dennis Kavanaugh
David Luna
Scott Somers

COUNCIL ABSENT

Christopher Glover
Dave Richins

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Dee Ann Mickelsen

Mayor Finter excused Vice Mayor Glover and Councilmember Richins from the entire meeting.

Mayor Finter introduced Mayor-elect John Giles and stated that he would be sworn in later today as the City of Mesa's 40th Mayor. He also introduced District 6 Councilmember-elect Kevin Thompson, who will be sworn into office in January, 2015.

1. Review items on the agenda for the September 22, 2014 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items deleted from the consent agenda: None

2-a. Hear a presentation, discuss and provide direction regarding a Telecommunication License with TW Telecom of Arizona.

City Engineer Beth Huning addressed the Council relative to a license agreement with TW Telecom of Arizona, LLC, (TWTA) and introduced Joan Burke, Legal Counsel for TWTA.

Ms. Huning explained that this license agreement includes exceptions to most standard license agreements in that it allows TWTA to install the communication network (conduit and fiber), in the City's rights-of-way and public utility easements.

Ms. Huning stated that the telecommunication license consists of a five-year term with the option of a five-year extension. She added that TWTA's responsibility is to pay the City transaction privilege tax as well as the required permitting fees. She noted that there is an exception relative to State Statutes regarding telecommunications companies and said that

since TWTA operates on a Local Area Network (LAN) and is also a provider of inter and intra-state services, the City cannot charge a per linear foot fee.

In response to a question from Councilmember Luna regarding whether or not TWTA was “grandfathered” relative to the linear foot fee, Assistant City Attorney II MaryGrace McNear stated that it is her belief that the per linear foot charges are waived due to the fact that TWTA operates on a LAN.

Ms. Burke explained that State Statute allows a per linear foot charge on a telecommunications company that does not provide intra-state service (local service). She added that TWTA is a local service provider, and per State Statute, cannot be charged a per linear foot fee. She pointed out however, that long line telecommunications companies are subject to per linear foot fees.

Ms. Huning displayed a PowerPoint presentation (**See Attachment 1**) and explained that TWTA services are currently being provided to customers in the areas of Alma School Road and Southern Avenue. She explained that an at-risk right-of-way permit was obtained for that location in order to provide service before the roads were re-paved.

Councilmember Kavanaugh commented that he is very familiar with the telecommunications laws, both on the federal and state levels, having served with the National League of Cities (NLC), and is aware of disadvantages to communities as well as what state law prohibits cities from charging. He added that he is aware that as part of the discussions, the City did propose an in-kind exchange of fiber and conduit which the parties could agree to if they chose.

Ms. Burke remarked that she was not familiar with the specifics regarding any of the in-kind discussions and noted that she was not certain that there was an expressed “no” stated. She said that the State Statute prohibits a city from requiring in-kind exchanges for a license, and added that a municipality must grant a license within a reasonable amount of time. She stated that TWTA has worked with cities frequently where fiber and conduit is needed outside of the context of a license, and added that TWTA works very amicably with municipalities to make arrangements that are advantageous to all.

Ms. Burke explained that TWTA wants to provide service to businesses within the City of Mesa, as TWTA realizes that such service is greatly needed. She commended the City for expediting the license agreement.

Councilmember Kavanaugh stated that this was the reason he posed the question. He said the City went the extra mile to assist TWTA and its customers, and from his perspective, state law does not prohibit TWTA from agreeing to the terms as part of a contractual arrangement. He expressed disappointment that he didn’t observe this today and added that he personally has reservations about moving forward with this item.

Ms. McNear clarified that there was an email exchange with regard to the in-kind discussions and she was advised that State Statute does not allow such for TWTA, nor would it be accepted in the license.

Mayor Finter thanked Ms. McNear for the clarification.

Mayor Finter recommended that this item be added to a future Regular Council meeting agenda as an off consent item.

3. Information pertaining to the current Job Order Contracting projects.

In response to a question from Councilmember Kavanaugh regarding traffic signals at the Cubs Stadium, Deputy Transportation Director Alan Sanderson indicated that the two traffic signals planned for installation are not intended to direct visitors to a certain area upon exiting a baseball game, but to allow visitors the option to exit east or west.

Mr. Brady commented that installing street lights would also allow easy access for public safety personnel.

4. Acknowledge receipt of minutes of various boards and committees.

4-a. Parks and Recreation Advisory Board meeting held on May 14, 2014.

It was moved by Councilmember Somers, seconded by Councilmember Luna that receipt of the above-listed minutes be acknowledged.

Mayor Finter declared the motion carried unanimously by those present.

5. Hear reports on meetings and/or conferences attended.

Councilmember Kavanaugh: Fiesta District Stakeholders Meeting

Councilmember Somers: Public Safety and Crime Prevention Committee

Councilmember Luna: Mesa Arts Center Season Kick-off Festival

6. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Thursday, September 19, 2014 6:00 p.m. – Swearing in of Mayor-elect John Giles, Mesa Arts Center, Piper Theater

Monday, September 22, 2014 5:15 p.m. – Study Session

Monday, September 22, 2014 5:45 p.m. – Regular Council Meeting

Mayor Finter announced that today's Study Session was the last meeting that Councilmember Benelli would be serving as Councilmember-District 2 and expressed his thanks on behalf of the entire Council for her service and hard work over the last six-months. Councilmember Benelli was presented with a vase and floral arrangement.

Councilmember Kavanaugh announced that he, on behalf of the entire Council, wished to commend and salute Mayor Finter for six-months of inspiring leadership during some very challenging times. He added that Mayor Finter's quiet but effective leadership style was exemplified during the challenges that the City faced with the recent flooding. He presented Mayor Finter with a gavel for his service as Mesa's Mayor.

7. Adjournment.

Without objection, the Study Session adjourned at 7:52 a.m.

ALEX FINTER, MAYOR

ATTEST:

DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 18th day of September, 2014. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

vf
(attachment – 1)

TW TELECOM, LLC

SEPTEMBER 18, 2014

TW TELECOM

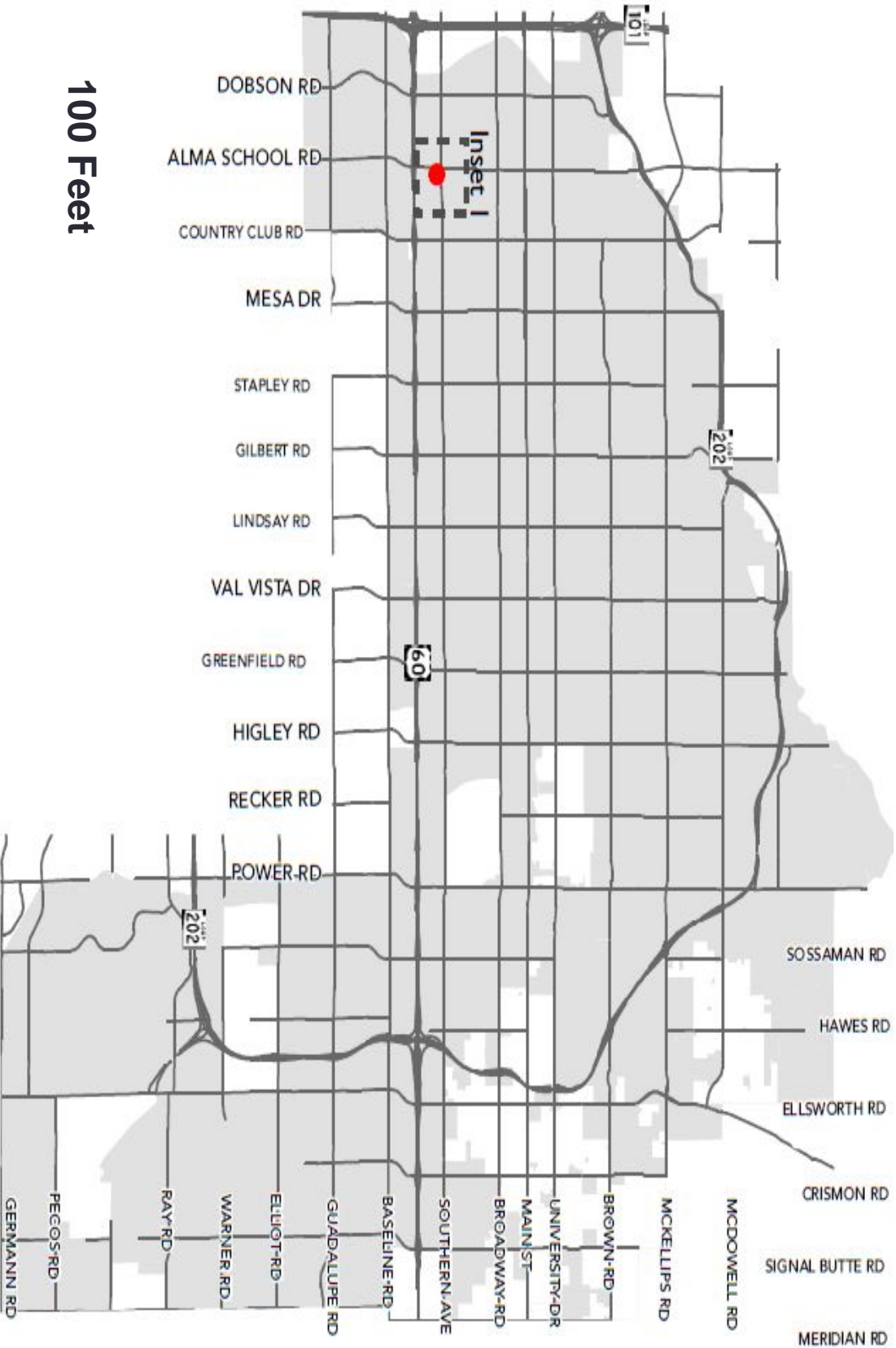
Telecommunication License

- Request to install communication network in City's rights-of-way & public utility easements
- Five year term with the option of a five year extension

TW Telecom will provide the City:

- Transaction privileged tax
- Required permitting fees

TW Telecom Location Map



Questions?