



City Council Report

Date: July 8, 2015
To: City Council
Through: Karolyn Kent, Assistant City Manager
From: Dan Cleavenger, Water Resources Department Director
Christine Zielonka, Development Services Department Director
Richard Kochanski, Fire Marshall, Fire and Medical Department
Subject: Changes to “The Terms and Conditions for the Sale of Utilities”
Citywide

Strategic Initiatives



Purpose and Recommendation

This Council Report identifies proposed changes to “The Terms and Conditions for the Sale of Utilities.” The most significant change is that the proposed revisions return the City to a position it held previously, that water and wastewater service will not be provided to new property without annexation. These changes still allow for providing service under similar circumstances as are currently allowed, with the addition of entering into a Utility Services Agreement which includes a waiver of certain statutory limitations. Staff is recommending that the changes be approved.

Background

Mesa acquired several small existing water companies in the 1980s. Some of these companies included distribution systems located outside Mesa’s City limits within Maricopa County. Thus Mesa has a number of customers in County areas. Additionally, Mesa water and wastewater lines have been extended outside of the City limits when individual (County) property owners have requested service and covered the cost of the line extensions.

The requirements for connection of new property have been discussed several times over the past eight years by the Council and Council Committees - Transportation and Infrastructure Committee (TIC) prior to the Sustainability and Transportation Committee (SAT). There have also been several appeals to the TIC, and

subsequently to the SAT, questioning the requirement of developing to City Standards.

City Development Standards for properties inside the City limits include the following:

- Dedication of Right-of-Way or Public Utility and Facility Easement (PUFE) for appropriate street grid,
- Construction of adjacent street improvements,
- Meet Fire Code Requirements, and
- Construct all water lines necessary for water quality, pressure and flow needs.

Discussion

The Terms and Conditions for Sale of Utilities establish all of the requirements for receiving City water and wastewater service both inside and outside of the City limits and are established by the Council. Over the years there have been extensive discussions with Councilmembers, staff and residents of the County who simply desire water service or wastewater service but who do not want to annex into the City. However, most recently property located outside the City has been provided service once, a Utility Service Agreement is signed by both the City and the property owner. The Utility Service Agreement includes all of the costs and fees that must be paid prior to receiving City utility service.

Recent legislation, A.R.S. § 9-500.34, limited the ability of Cities to require improvements as a condition of receiving water service outside the City limits. To insure that Mesa's water and wastewater systems are developed in a manner that provides for adequate access, maintenance and repair, road and other improvements will be required in parallel with water/wastewater service extensions outside the City limits. Additionally, the property owner must sign a waiver of all rights under A.R.S. § 9-500.34 if they elect not to annex, but desire to receive City water and wastewater service. This waiver will be required as part of the Utility Service Agreement.

Other proposed changes to the Terms and Conditions are primarily clerical. No changes are being made to sections covering fees and charges for the various types of utility services.

Significant sections of the document with proposed changes include:

- Section 3D: Stipulates that all properties within the City must develop in compliance with City development standards. The requirements applicable to properties outside Mesa City limits are moved to section 23. Section 3J: The portion discussing fees for properties outside Mesa City limits is moved to section 23.
- Section 3M: Clarifies that property outside Mesa City limits desiring service are to annex and notes exceptions are in section 23.
- Section 23 is added and includes clarification that the owner of the property shall enter into a Utility Services Agreement wherein the owner agrees to

comply with these Terms and Conditions and irrevocably waives all rights under A.R.S. § 9-500.34. The discussions of improvement requirements for service outside the City that had previously been included in other sections of the Terms and Conditions have all been moved to Section 23 A-C.

- Section 24C is removed to provide consistency of appeal requests through designated City Council Committee prior to City Council review.

Alternatives

1. Adopt the provisions as recommended.
2. Denial or modification of the recommendations could be provided by Council. A revised resolution and ordinance will then be prepared for Council consideration at a later date.

Fiscal Impact

There are no significant fiscal impacts associated with the proposed modifications.

Coordinated With

The proposed modifications have been coordinated with the Development Services Department, the Fire and Medical Department, Water Resources Department, Engineering and Transportation along with the City Manager's Office and the City Attorney's Office.