



City Council Report

Date: October 18, 2021
To: City Council
Through: Marc Heirshberg, Deputy City Manager
From: Jake West, Water Resources Department Director
Subject: Issuance of Permit for the Filling of an Artificial Lake and Approval of Agreement to Exchange Long-Term Storage Credits ("Exchange Agreement") between the City of Mesa and Action Zone Business 17, LLC, a Utah limited liability company f/k/a Power 17, LLC ("**AZB**"). (District 6)

Purpose and Recommendation

Consider the issuance of a Permit (attached as Exhibit A) for the filling of an artificial lake and approval of an associated Agreement for the Exchange of Long-Term Storage Credits (attached as Exhibit B).

It is recommended that the City of Mesa Council issue the Permit and approve the Exchange Agreement.

Background

In the summer of 2020, property owned by AZB located at the southeast corner of Power Road and Warner Road was annexed into the City of Mesa and rezoned by the City of Mesa (the "Property"). Subsequently, AZB submitted site designs for use of portions of this Property. A key feature of this development (Cannon Beach) features a large pool for recreation purposes, which will be surrounded by mixed-use commercial facilities.

Discussion

Pursuant to Section 7, Chapter 10 of Title 8 of the Mesa City Code, in order to fill an artificial lake (any man-made body of water with a surface area greater than 12,320 square feet), a permit must be obtained from the City. This requirement mirrors the State's "Lakes Bill" which provides that "bodies of water" constructed after January 1, 1987 and larger than an Olympic-sized pool can only be filled with effluent, storm-water runoff, poor quality water or water withdrawn to resolve water logging or water contamination. A.R.S. § 45-132.

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In this case, the applicant AZB desires to fill and operate a large pool at their development Cannon Beach. Pursuant to 8-10-7(A)(2) of the code, the Council may issue a permit where the "Lake" is to be filled exclusively with effluent (reclaimed) water. AZB intends to use effluent water based Long Term Storage Credits, which retain their original characterization at the time water is withdrawn and used and the Credits are extinguished.

AZB has obtained 500 acre-feet (an acre foot equals 326,000 gallons) of long-term storage credits ("Credits") based on the storage of Central Arizona Project water. This is anticipated to be an adequate supply for twenty years of operation at Cannon Beach. However, in order to utilize Credits for the purposes of the wave pool, AZB needs effluent-based Credits. The City has a large supply of effluent based credits for water stored within the boundaries of the Roosevelt Water Conservation District (RWCD), which includes the property where Cannon Beach will be located.

In addition to the Permit, AZB has proposed a simple exchange of the CAP Credits for Effluent Credits with the City. The City will exchange 500 acre-feet of effluent credits for water stored within the boundaries of the RWCD for an equal amount of Central Arizona Project (CAP) water credits which were also based on water stored within the RWCD service area. As mentioned, this volume of water credits is estimated to be sufficient to supply the demand for the Cannon Beach water feature for 20 years.

The attached Agreement documents the exchange of the CAP Credits held by AZB for Effluent Credits held by Mesa. This exchange shall be undertaken by appropriate filings with Arizona Department of Water Resources. The Credits will be recovered by AZB from a well on or near the Cannon Beach Property. The City of Mesa will serve the commercial facilities and other uses that surround the recreational feature and gain several new utility accounts, but will not serve the water feature.

Alternatives

The City of Mesa could refuse to enter into the Agreement but then would potentially forego the many benefits of this new development.

Fiscal Impact

There is no cost to the City of Mesa for entering this Agreement.

Coordinated With

The City Attorney's Office has reviewed the Agreement as to form and as to the City's authority to enter.