

COUNCIL MINUTES

March 15, 1999

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 March 15, 1999 at 4:35 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
*John Giles (Telephone)
Keno Hawker
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy

COUNCIL ABSENT

None

STAFF PRESENT

Kevin Adam
Wayne Balmer
Kathy Barrett
Neal Beets
Denise Bleyle
Jamie Brennen
Mark Coon
Bob Deleon
Luigi Digirolamo
Jack Friedline
Gerry Gerber
Mike Hutchinson
Barbara Jones
Karen Kille
Peter Knudson
Wayne Korinek
Ron Krosting
Rich Lorig
Greg Marek
Jeff Martin
Tom Mattingly
Keith Nath
Ellen Pence
Bryan Raines
Andrea Rasizer
Tom Remes
Becky Richardson

STAFF PRESENT (CONT.)

Regan Robbins
Kathleen Savagian
Sharon Seekins
Jenny Sheppard
Walter Switzer
Doug Tessendorf
Mike Whalen
Mindy White
Larry Wolf
Others

OTHERS PRESENT

Bill Brando
Luule Brando
Teresa Brice-Heames
Vince Fantozzi
Paul Gilbert
Robbie Sherwood
Marty Whalen
Mary Jo Whalen
Fred Williams
Kent Xander
Others

*Mayor Brown announced that Vice Mayor Giles will participate in discussion and voting on agenda items by use of telephone conferencing.

Mayor Brown extended condolences to City Manager Charles Luster regarding the recent loss of his spouse.

(Agenda items were discussed out of order but for purposes of clarity, will remain as listed on the agenda.)

1. Review items on the agenda for the March 15, 1999 Regular Council Meeting.

All of the items on the agenda were reviewed among Council and staff with no formal action taken. There was specific discussion relative to the following items:

3. Conduct a public hearing concerning the proposed revised Mesa Town Center Redevelopment Plan. (See Item 8b for text.)

Mayor Brown and Councilmembers Hawker, Jaffa, and Pomeroy indicated that they had a potential conflict of interest in connection with the matter now under discussion which they wanted recorded in the minutes of the meeting.

City Attorney Neal Beets explained that because potential conflicts of interest affect four Councilmembers (a majority of the Council) and State law requires a Council-approved redevelopment plan for downtown before the City can proceed with additional redevelopment projects in the area, it is his recommendation and opinion that all Councilmembers can and should participate in discussion and voting on the proposed new redevelopment plan (see Items 8b and 8b.1).

6. Consider the following contracts.

- n. Street improvements along North Old Gilbert Road and Hermosa Vista Drive; South Norfolk Street; and Golden and Gary Street cul-de-sacs - City of Mesa Project Nos. 98-80; 99-07; and 98-42.

These projects consist of paving portions of old, existing residential streets that have never been paved.

Recommend award to low bidder, the Achen-Gardner Companies, in the amount of \$359,143.05.

Councilmembers Hawker and Jaffa indicated that they had a potential conflict of interest in connection with the matter now under discussion which they wanted recorded in the minutes of the meeting, and because of such conflict of interest, they would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown stated that this item will remain off the consent agenda.

8. Consider the following resolutions:

- b. Relating to redevelopment areas, and finding and declaring the necessity of redevelopment of the Mesa Town Center; and

- b.1. Approving a redevelopment plan for the Mesa Town Center area.

Mayor Brown and Councilmembers Hawker, Jaffa, and Pomeroy indicated that they had a potential conflict of interest in connection with the matter now under discussion which they wanted recorded in the minutes of the meeting.

City Attorney Neal Beets explained that because potential conflicts of interest affect four Councilmembers (a majority of the Council) and State law requires a Council-approved plan for the downtown area before the City can proceed with additional redevelopment projects in the area, it is his recommendation and opinion that

all Councilmembers can and should participate in discussion and voting on the proposed new redevelopment plan (see also Item 3).

- c. Relating to signs in the Town Center. Declaring the Sign Code to be a public record.

Mayor Brown and Councilmembers Hawker, Jaffa, and Pomeroy indicated that they had a potential conflict of interest in connection with the matter now under discussion which they wanted recorded in the minutes of the meeting.

City Attorney Neal Beets explained that because potential conflicts of interest affect four Councilmembers (a majority of the Council) and Council approval is necessary before the City can adopt a new Sign Code, it is his recommendation and opinion that all Councilmembers can and should participate in discussion and voting on the proposed new Sign Code (see Item 9a).

- f. Approving the execution and delivery of an amended and restated intergovernmental agreement with the State of Arizona relating to the acceleration of the roadway design, right-of-way acquisition, and roadway construction of the Red Mountain Freeway between Country Club Drive and Gilbert Road, the acceleration of the General Plan of the Red Mountain Freeway between Gilbert Road and Higley Road, the obtaining of a utility easement between McKellips Road and Gilbert Road, and the advancing of funds by the City to the State to accomplish such purposes; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and declaring an emergency.

Mayor Brown requested that Assistant to the City Manager Jeff Martin explain at the Regular Council Meeting this date the purpose of the emergency clause.

9. Considering the following ordinance.

- a. Relating to signs; repealing Chapter 4, Title 4 of the Mesa City Code; preserving rights and duties that have matured and proceedings that have begun thereunder; amending Title 4 of the Mesa City Code by adding a new Chapter 4; providing penalties for the violation thereof; and establishing a delayed effective date. (See Item 8c for text.)

Mayor Brown and Councilmembers Hawker, Jaffa, and Pomeroy indicated that they had a potential conflict of interest in connection with the matter now under discussion which they wanted recorded in the minutes of the meeting.

City Attorney Neal Beets explained that because potential conflicts of interest affect four Councilmembers (a majority of the Council) and Council approval is necessary before the City can adopt a new Sign Code, it is his recommendation and opinion that all Councilmembers can and should participate in discussion and voting on the proposed new Sign Code (see also Item 8c).

- 10.1. Consider a notice of intention to consider establishing a wastewater rate to be used for governmental agencies wholesale service outside the City.

Mr. Beets indicated that this issue involves a notice of intention and the public hearing concerning the matter will not be held until the April 19, 1999 Regular Council Meeting.

In response to a question from Councilmember Davidson, Mr. Beets advised that it is unnecessary for Councilmember Davidson to declare a conflict of interest relative to the notice of intention but said that further consideration may be necessary when the matter is presented for Council action.

Mayor Brown stated that this item will be added to the consent agenda.

11. Consider the following subdivision plats.

- *a. "ARBOLEDA UNIT ONE" - The 3200-3600 block of East McKellips Road (south side). 80 R1-9 single-residence lots (3.69 acres). Edmunds-Toll Limited Partnership, developers; Sage Engineering Corporation, engineer.

Community Development Manager Wayne Balmer noted a typographical error and stated that the item should reflect 85 R1-35-PAD lots on 80.6 acres. Mr. Balmer reported that advertising relating to this matter included the correct information.

2. Further discussion and consideration concerning a proposed compromise agreement regarding the residential density for County Zoning Case Z98-53 located at the northeast corner of Warner and Mountain Road.

Mayor Brown presented background information concerning County Zoning Case Z98-53, noting that although the City's General Plan permits 0 to 1 unit per acre in this area, it is his opinion that the Maricopa County Board of Supervisors is willing to approve the applicant's request for 3.5 units per acre. Mayor Brown said that a compromise of approximately 2.4 units per acre has been proposed and that it is his and City Manager Charles Luster's recommendation that the City support a compromise.

Councilmember Kavanaugh stated that given the legal circumstances relating to this property and the anticipated approval by the Board of Supervisors, he will support the proposed compromise but said that his support should not be construed as a precedent for additional property in the vicinity of Williams Gateway Airport and/or the General Motors Proving Grounds.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, to support the proposed compromise.

In response to a question from Councilmember Hawker, City Attorney Neal Beets stated the opinion that the General Plan for the area reflects a density of 0 to 1 unit per acre.

Mayor Brown questioned the feasibility of further compromise on behalf of the applicant. Paul Gilbert, 3200 North Central Avenue, Phoenix, representing the applicant, indicated that the compromise was offered at 195 lots but that the applicant is willing to reduce the number to 190 lots.

Mr. Balmer advised that 195 lots equates to approximately 2.44 units per acre, and that 190 lots would equate to approximately 2.38 units per acre.

Brief discussion ensued concerning ownership of the property.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, to amend the motion to recommend approval of the compromise at 190 lots, reflecting a density of 2.38 units per acre.

Vice Mayor Giles indicated reluctant support for the motion given the anticipated approval of the applicant's request by the Board of Supervisors.

Councilmember Pomeroy concurred with Vice Mayor Giles and suggested that a resolution be drafted requesting that the Board of Supervisors adhere to the City's General Plan for property in the vicinity of Williams Gateway Airport.

Mayor Brown requested that Mr. Beets prepare a resolution for consideration by Council.

Councilmember Jaffa spoke regarding the importance of Williams Gateway Airport and adherence to the City's General Plan. Councilmember Jaffa expressed concern pertaining to density levels in relation to additional parcels in the vicinity, particularly approximately 80 acres to the north of the subject property. Councilmember Jaffa said that he does not favor the motion, commenting that approval of the compromise is detrimental to the type of diversity needed to protect the viability of the Airport. Councilmember Jaffa stated that it is appropriate to support the General Plan.

Mayor Brown related efforts underway to protect the viability of Williams Gateway Airport but spoke regarding the necessity for compromise relative to this particular zoning case. Mayor Brown advised that future zoning cases will be reviewed by Council and action taken to the extent possible to ensure conformity to the City's General Plan.

Mayor Brown reiterated the applicant's proposal to reduce the number of lots from the original request of 280 (equating to 3.5 units per acre) to 190 lots.

Upon tabulation of votes, it showed:

AYES - Brown-Giles-Kavanaugh-Pomeroy

NAYS - Davidson-Hawker-Jaffa

Mayor Brown declared the motion carried by majority vote.

Mr. Gilbert expressed appreciation to Council.

3. Further discussion and consideration regarding the proposed publicity pamphlet for the May 18, 1999 City election.

Assistant City Manager Mike Hutchinson advised that in response to comments from Council and the Rio Salado Multipurpose Facilities District Board of Directors, revisions have been proposed for the publicity pamphlet for the May 18, 1999 Special Election. Fred Williams, Mesa's bond counsel, indicated that the proposed revisions have been forwarded to the Cardinals' legal counsel.

Mr. Williams reviewed the proposed changes to the description of the Rio Salado Project, including the addition of language reflecting the initial 25-year lease term for the Arizona Cardinals and indicating that when completed, hotels will have sufficient capacity to serve most of the needs of those attending events at the Center.

Discussion ensued concerning anticipated recreational amenities, golf courses (including current plans to construct a golf course in East Mesa), revisions necessary to the Project Location Map, and legislative amendments. In response to comments from Council, Mr. Williams suggested that the phrases "including rock climbing walls and a skateboard park" and "including a municipal golf course to replace Riverview golf course" be included in the text as parenthetical expressions and that the map reflect that a portion of land currently located outside the district is proposed to be added to the project site in the future.

Marty Whalen, Chairman of the Rio Salado Multipurpose Facilities District Board of Directors, noted that the Board is scheduled to meet to review the publicity pamphlet following the Study Session. Chairman Whalen recommended that the words "and no additional City subsidy is planned" be added to the text of the Rio Salado Project summary. Councilmember Hawker objected to the language.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that the publicity pamphlet be approved with the revisions as noted by Mr. Williams.

Councilmember Jaffa stated appreciation for the addition of language stating that even if authorized by the voters, imposition of the tax increase and the use of state sales tax revenues is dependent upon approval of certain contracts. Councilmember Jaffa expressed concern that reference is not included pertaining to a specific number of hotel rooms within Mesa.

Discussion ensued pertaining to development as a multi-year project and costs associated with hotel construction.

At the request of Vice Mayor Giles, Mr. Williams read excerpts from the text. Councilmembers spoke again regarding anticipated amenities and the replacement of Riverview golf course.

Councilmember Hawker expressed concern regarding proposed revisions and requested a separate vote for the paragraph relating to proposed amenities.

It was moved by Councilmember Hawker, seconded by Vice Mayor Giles, to amend the motion to stipulate the addition of language indicating that when completed, hotels will have sufficient capacity to serve most of the needs of those attending events at the Center and the addition of parenthetical text relating to rock climbing walls and a skateboard park, but not including reference that Riverview will be replaced by another golf course.

Upon tabulation of votes, it showed:

AYES - Davidson-Giles-Hawker-Jaffa
NAYS - Brown-Kavanaugh-Pomeroy

Mayor Brown declared the motion carried by majority vote.

Mayor Brown requested that Council vote on the original motion as amended.

Upon tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Hawker-Jaffa-Kavanaugh
NAY - Pomeroy

Mayor Brown declared the motion carried by majority vote.

Mayor Brown thanked Mr. Williams and staff for their efforts.

4. Discuss and consider a report on the revised intergovernmental agreement with the Arizona Department of Transportation regarding the acceleration of construction of the Red Mountain Freeway from State Route 87 to Gilbert Road.

Mayor Brown stated that this item corresponds to Item 8f on the agenda for the Regular Council Meeting to be held this date and will be discussed at that time.

5. Review and consider proposed CDBG/HOME/ESG Projects (Community Development Block Grant, HOME Investment Partnership, Emergency Shelter Grant) for 1999-2000.

Mayor Brown said that this item corresponds to the public hearing to be held pursuant to Item 3.1 on the agenda for the Regular Council Meeting this date.

Community Development Manager Wayne Balmer indicated that no action is scheduled by Council at this time and requested that Councilmembers forward any comments concerning this matter to staff.

6. Further discussion and consideration concerning the recommended fees for consultant services for the Arts and Entertainment Center project.

Mary Jo Whalen, Chairman of the Arts and Entertainment Architectural Selection Committee, advised that the Committee met recently and voted to recommend approval of the contract with the consultant.

Superintendent of Streets Keith Nath reported that a phased approach to the project is proposed, with the first phase consisting of a study to analyze and verify the program, budget, and schedule for the project, and the second phase involving the design and construction administration services associated with the project. Mr. Nath stated that a fixed fee of \$194,400 is recommended for the first phase and a percentage fee of 12.7 percent is recommended for the second phase.

In response to a question from Councilmember Kavanaugh, Mr. Nath expressed the opinion that 12.7 percent is an appropriate figure given the unique character of the project and the specialized consultants required.

Councilmember Kavanaugh noted the unanimous recommendation for approval of the contract by the Arts and Entertainment Architectural Selection Committee. Councilmember Kavanaugh stated that the first phase will assist in defining the budget for the project and spoke in favor of proceeding with the first phase at this time.

Councilmember Pomeroy expressed concern regarding the length of time anticipated for completion of the project and encouraged efforts to avoid delays in order to minimize costs.

It was moved by Councilmember Pomeroy, seconded by Councilmember Davidson, that the recommendation of staff be approved.

Councilmember Jaffa suggested that Council approve the first phase at this time and that the second phase be presented for consideration at a future date.

In response to a question from Councilmember Hawker, City Attorney Neal Beets stated that the proposal involves a design contract and does not require public input prior to action.

Discussion ensued concerning the scope of the project. Mr. Nath clarified that the cost relating to the second phase is an estimate at this time and that when the scope and budget are finalized, a final fee will be negotiated and presented to Council for consideration.

Vice Mayor Giles indicated support for the motion.

A tabulation of votes showed the motion carried unanimously.

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

- a. Adjustment Board meeting held March 2, 1999.
- b. Ad Hoc Committee on Impact Fees meeting held January 8, 1999.
- c. Downtown Development Committee meeting held February 18, 1999.
- d. Economic Development Advisory Board meeting held February 25, 1999.
- e. General Development Committee meetings held January 7, 1999 and February 9, 1999.
- f. Joint Transportation Committee/Transportation Advisory Board meeting held January 26, 1999.
- g. Police Committee meetings held January 28, 1999 and March 10, 1999.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Jaffa, to acknowledge receipt of the above-listed minutes.

Carried unanimously.

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

There were no reports on meetings and/or conferences attended at this time.

9. Scheduling of meetings and general information.

Assistant City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Thursday, March 18, 1999, 8 a.m. - Study Session (followed by a Transportation Committee Meeting)

Monday, March 22, 1999, 5:30 p.m. - Joint Dinner Meeting with the Salt River Project Board of Directors

Thursday, March 25, 1999, 8 a.m. - Study Session (followed by a Utility Committee Meeting)

Monday, March 29, 1999, 4 p.m. - General Development Committee Meeting

10. Prescheduled public opinion appearances (maximum of three speakers for three minutes per speaker).

There were no prescheduled public opinion appearances.

11. Adjournment.

Without objection, the Study Session adjourned at 6:03 p.m.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

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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 15th day of March 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK