

COUNCIL MINUTES

September 7, 2006

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 7, 2006 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Mike Whalen

COUNCIL ABSENT

Claudia Walters

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

(Mayor Hawker excused Vice Mayor Walters from the meeting.)

1. Hear a presentation, discuss and provide direction on planning application fees.

Planning Director John Wesley displayed a PowerPoint presentation in the Council Chambers and provided an extensive overview of proposed changes to the fees charged for Planning & Zoning (P&Z) and Downtown Development Committee (DDC) applications. (The PowerPoint presentation is available for review in the City Clerk's Office.) He reported that each year, staff reviews various application fees (i.e., zoning, subdivisions, General Plan amendments, variances) not only to ensure they are competitive, but also to recover costs for the services provided by Planning Division staff. (Note: Currently recovering an estimated 51% of those services.)

Mr. Wesley advised that staff recently received two cases involving extensive acreage, including a rezoning request for 611 acres and a request for a Development Master Plan modification of 717 acres with specific rezoning and site planning. He commented that when staff applied the current fee structure to those cases (\$18,000 plus \$180 per acre), it raised concerns that the City might be charging higher fees than necessary (i.e., \$111,780 for the 611-acre rezoning request and \$130,860 for the 717-acre request.). Mr. Wesley stated that the applicant in the 611-acre rezoning request raised concerns regarding the fee and staff agreed to review the matter.

Discussion ensued relative to the fact that Mesa's planning application fees are considerably higher than those in other communities; that various communities utilize sliding scale fees for cases that involve extensive acreage; that the Development Services Manager is allowed, per the Zoning Ordinance, to approve a waiver of a part or all of a fee, but there is no guidance or criteria provided as to the basis for deciding what is an acceptable adjustment; that staff examined the costs associated with zoning applications, of which the primary purpose is to

recover the cost for services, but not necessarily generate revenue for the City; the fact that it is difficult to forecast the amount of staff time that is necessary for a particular application due to the range of projects that are submitted; and that the Planning Division has implemented procedures to track staff time associated with each project more accurately.

Mr. Wesley outlined staff's proposed modifications to the fee structure as follows:

- Separate sliding fees, based on the project size, when zoning and site plan review are requested separately.
- A sliding fee for large developments that include both zoning and site plan review.
- A separate fee for minor site plan modifications only or an increase to the types of site plan modifications that can be approved administratively.

Mr. Wesley highlighted examples of a proposed sliding fee schedule which would provide a savings for combined rezoning and site plan applications, and separate fees for zoning and site plan review. (See Attachment 1.)

Further discussion ensued regarding the fact that under the current ordinance and procedures, once a site has an approved site plan, any further change is considered a site plan modification; that the current fee structure imposes a separate \$600 fee for administrative review of site plan modifications; and that staff is considering either establishing a separate category for fees for site plan review that exceed what can be addressed administratively (but not a major change that would involve extensive staff time to review), or to further increase the level of modification allowed to be considered as appropriate for administrative review.

Mr. Wesley concluded his presentation by stating that if the Council agrees with the proposed modifications, staff would work with the P&Z and the DDC to prepare an ordinance amendment, which would be brought back to the Council for action. He added that if the Council approves moving forward with the proposed fee changes, staff would apply the reduced fees to the two previously mentioned applications and the Development Services Manager would approve a waiver of said fees.

Mayor Hawker requested that staff conduct a cost analysis between Mesa and other communities to compare not only the fees that would be charged for large developments, but also for smaller one and five-acre sites. He questioned whether his fellow Councilmembers would support a cost recovery model that achieves a greater return than the current 51%, and also inquired whether it would be appropriate for the City to "reward" the economy of scale and encourage large master planned developments over one or five-acre parcels. Mayor Hawker further noted that regarding site plan modification, he would support the development of "a well-defined system" that allowed the Planning Division to charge developers for the actual staff hours incurred on projects. He added that he prefers that staff implement separate fees for zoning and site plan review

In response to a series of questions from Mayor Hawker, Mr. Wesley reiterated that the Planning Division is creating databases that would have the capability to track staff's time, (including an hourly rate) associated with each project. He said that he anticipates receiving the initial results within six to nine months.

In response to a question from Mayor Hawker, Development Services Manager Jack Friedline clarified that the 51% cost recovery figure identified by Mr. Wesley relates to the particular section of the Division that is associated with current planning activities, but does not include

overhead and staff time related to zoning applications and site plan modifications. He noted that the Planning Division has difficulty achieving 100% cost recovery based on the various services that staff provides including, as an example, a staff member who consults with an individual wishing to discuss a potential development project. Mr. Friedline assured the Council, however, that staff's direct costs to process zoning applications and site plan modifications are fully recovered.

Mayor Hawker requested that staff develop a cost recovery model relative to services provided by Planning staff associated with particular development projects.

Councilmember Rawles concurred with Mayor Hawker's comments relative to the development of a cost recovery model. He expressed support for staff's proposals, as well as the Development Services Manager having the ability to modify the fees for the two pending cases. Councilmember Rawles inquired regarding the proposal to provide a reduced fee for "minor" site plan modifications and questioned whether it would be more appropriate to impose a minor fee versus a major fee or broaden the administrator's review capabilities. He added that he looks forward to input from the P&Z and the DDC concerning this issue.

Councilmember Somers commented that the creation of the databases designed to provide specific cost recovery information would assist staff in justifying the "tiered level" fee structure.

Councilmember Griswold expressed appreciation to staff for their efforts to improve and update some of the Planning Division's "antiquated systems." He also stressed the importance of not "pricing out" prime development opportunities in Mesa. Councilmember Griswold stated that he supports the sliding fee schedule and added he looks forward to viewing the database results that would track staff time associated with each project.

Councilmember Whalen concurred with the comments of his fellow Councilmembers. He requested that staff research the types of planning application fees that are charged by those communities currently developing large tracts of land such as Buckeye, Surprise, Avondale and Peoria.

Councilmember Jones suggested that until the results of the database have been determined, that staff utilize historical information regarding staff costs to provide services and create a scale of fees accordingly. He expressed support for staff's proposals and said there is a need for a greater level of administrative flexibility so that projects are not "bogged down" in the process.

Mayor Hawker questioned whether there is a process in place to assess the "absorption" of land throughout the community in relation to the amount of work Planning staff would be required to perform in reference to zoning and rezoning projects as compared to redevelopment projects. He stated that this information would be useful to obtain in order to determine staffing requirements at build out.

Councilmember Rawles suggested that as Planning staff begins to build a cost recovery model, it is important to gear those costs "towards the norm." He commented, however, if a neighborhood redevelopment project, for instance, resulted in a contentious process that incurred more staff time than anticipated, perhaps the City could draft language that would require the developer to absorb a portion of those costs.

Mayor Hawker thanked staff for the presentation.

2. Hear a presentation, discuss and provide direction on issues relating to 2006 insurance renewal.

City Attorney Debbie Spinner introduced Deputy City Attorney Mark Ishikawa, Risk Management Claims Analyst Barry Hegrenes and John Chino, a representative of A.J. Gallagher, Mesa's insurance broker, who were prepared to address the Council relative to this agenda item.

Ms. Spinner referred to a PowerPoint presentation and provided an extensive update regarding the Property and Liability Trust Fund. (The PowerPoint presentation is available for review in the City Clerk's Office.) She explained that the City, through this Fund, pays all liability claims, salaries for the litigation team (within the City Attorney's Office) and all insurance premiums. She also provided a historical overview of the Property and Liability Trust Fund, the responsibilities of the litigation team concerning liability claims filed against the City, and the types of liability claims.

Ms. Spinner referred to a series of graphs and offered a statistical analysis of General Fund contributions made to the Property and Liability Trust Fund; reviewed liability claims and cases paid; and highlighted insurance premiums and self-insured retention (SIR). She noted that Mesa is self insured for the first \$2 million (per occurrence), meaning that for any claim or lawsuit filed against the City, if the matter is settled or a judgment is granted below \$2 million, the Property and Liability Trust Fund would pay that amount. She added that any settlement or judgment in excess of \$2 million would be submitted to the City's Excess Liability Provider.

Discussion ensued relative to the fact that certain insurance companies insure municipalities "from the first dollar up" and generally would not even offer an insurance quote to a municipality with a population in excess of 50,000; that it may be possible for the City's insurance broker to obtain quotes down to \$1 million or \$500,000 retention from underwriters that specialize in providing excess insurance or re-insurance to entities the size of Mesa; the fact that a number of smaller cities in the Valley participate in self-insured pools, wherein the entities "pool" their risk together; and that staff has never pursued such an option for Mesa.

Councilmember Rawles commented that Mesa has experienced several difficult years financially and has been able to fund the Property and Liability Trust Fund at a much higher level (\$4 million) the last two years. He suggested that it may be advantageous for the City to have the flexibility to lower its General Fund contribution to zero, as in FY 2002/03, and stated that given the fact that the City is "quasi-stabilized," such an option should be considered. He stressed, however, that he does not want his comments to be construed as a criticism of staff, but rather another option to be considered from a cost standpoint.

Ms. Spinner reviewed her office's recommendations concerning upcoming insurance renewals in November of this year as follows:

- SIR (Self Insured Retention) and Excess Limits

The City Attorney's Office recommends leaving the SIR at \$2 million, but also seeking bids for Excess Liability Coverage at \$25 million, \$30 million and \$40 million. With regard to the SIR, communities such as Chandler, Scottsdale and Tempe are also at the \$2 million level. Staff could ask that when the City's insurance broker solicits bids, that he determine the cost to the City to lower the SIR to \$1 million or \$500,000.

Mayor Hawker requested that staff provide the Council with information regarding “a broad spectrum” of excess liability coverage; the number of cases the City has settled and at what cost; examples of the types of cases nationwide that occur in governmental entities that could exceed the City’s current excess liability coverage of \$25 million; and a breakdown of the City departments that incur the largest number of claims and the associated dollar amounts.

- Crime/Employee Theft Coverage

Mesa has not historically purchased this type of coverage, but there is a trend in the industry that public and private entities now do so. Staff recommends that the City Attorney’s Office ask the broker to seek bids including and excluding this provision. The Council would make a final determination in November, based on the cost of the coverage.

Mayor Hawker stated that in order to evaluate this item, he would need additional information concerning a loss history of employee theft at the City.

Councilmember Rawles commented that if the City must prove “by criminal conviction or otherwise” that an employee stole property, then criminal conviction requires restitution. He questioned if restitution is likely, then why would the City need this insurance coverage.

- Fine Arts Coverage

Fine arts are typically excluded from general property insurance. For the past several years, the Arts and Cultural Division has purchased a “Fine Arts” policy to cover all exhibits at the Mesa museums for a cost of \$9200. The policy provides additional coverage not only in terms of transporting exhibits to and from City facilities, but also offers restoration coverage, which the general property coverage does not. The policy also carries a \$1,000 deductible, as compared to a \$50,000 deductible for the City’s general property coverage. Staff recommends that the City continue to purchase a separate “Fine Arts” policy to cover the exhibits at the museums.

Councilmember Rawles commented that although he initially raised concerns regarding the Fine Arts Coverage, he now supports staff’s recommendation to continue to purchase the insurance.

Mayor Hawker thanked staff for the presentation.

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

Councilmember Griswold: SRP Power Line Plan Public Meeting

(Mayor Hawker excused Councilmember Whalen from the meeting at 8:37 a.m.)

4. Scheduling of meetings and general information.

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

Tuesday, September 12, 2006, 3:30 p.m. – Police Committee Meeting

Thursday, September 14, 2006, 7:30 a.m. – Study Session

Thursday, September 14, 2006, 8:00 a.m. – General Development Committee Meeting

5. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

6. Items from citizens present.

There were no items from citizens present.

7. Adjournment.

Without objection, the Study Session adjourned at 8:40 a.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, 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 7th day of September 2006. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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