



## COUNCIL MINUTES

February 26, 2009

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 February 26, 2009 at 7:32 a.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

#### 1. Review items on the agenda for the March 2, 2009 Regular Council meeting.

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

Conflicts of interest declared: None

Items added to the consent agenda: None

Items removed from the consent agenda: None

#### 2. Hear a presentation, discuss and provide direction on the City Council Strategic Initiatives.

Assistant to the City Manager Natalie Lewis addressed the Council regarding the Planning Workshop that was held approximately six months ago. She reviewed the Strategic Initiatives (see Attachment 1) that were developed by the Council during the workshop.

Mayor Smith commented that the economic downturn has changed the environment in which the City operates. He stated the opinion that identifying the key issues has enabled the Council to better address the financial crisis, and he added that the Strategic Initiatives, which relate to long-term goals for the City, serve to guide the Council's decision making process.

City Manager Christopher Brady referred to the examples of existing programs (see Attachment 2) that support the Strategic Initiatives. He said that staff is seeking direction from Council regarding the high priority objectives (see Attachment 3).

Ms. Lewis reviewed the nine objectives identified by the Council as having the highest priority in the two-year timeframe.

Mayor Smith commented that many objectives are being implemented, but he added that some would be delayed as a result of the financial crisis. He added that some of the organizational changes implemented in the past few months are reflected in the objectives while other changes may have to be reconsidered because of economic conditions.

Vice Mayor Jones noted that the Financing the Future Committee was not reconvened when the Council had to act quickly in response to the economic turndown. He said that the Committee would be reconvened at some point in the future.

Mayor Smith stated that many of the organizational changes implemented to address the economic conditions could be reviewed by a Financing the Future Committee. He noted that many of the changes are exploratory in nature.

Mr. Brady advised that the objectives serve as reference points for staff as items are brought forward for Council consideration. He noted that staff wants to ensure that the programs and policies are being addressed and prioritized in a manner that meets the Council's expectations.

Mayor Smith stated that although money tends to determine priorities, the City can operate in a different manner and utilize other resources to accomplish objectives.

Councilmember Kavanaugh stated the opinion that the Strategic Initiatives represent the core values that drive the Council's decision making process. He said that staff has made a remarkable effort to accomplish the objectives outlined by the Council.

Mr. Brady said that as budget issues are brought forward for Council consideration, staff will correlate the issues to the appropriate Strategic Initiative.

Mayor Smith thanked staff for the presentation.

3. Hear a presentation, discuss and provide direction on amending the livestock regulations as recommended by the Community & Neighborhood Services Committee.

Zoning/Civil Hearing Administrator Gordon Sheffield displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) and advised that the Lehi Sub-area Plan, which was adopted by the Council in January 2006, included two goals related to livestock regulations:

1. Decriminalize livestock regulation penalties (completed in June 2008).
2. Amend provisions of the Livestock Ordinance to be similar to the regulations of other successful rural communities.

Mr. Sheffield said that staff was seeking Council input prior to preparing an ordinance that reflected the following revisions proposed by the Community and Neighborhood Services Committee:

- Revision of rules regarding the raising of infant animals, including project animals by FFA and 4-H students.
- Proposal for a point system revision to modify livestock ratios.
- Lower minimum lot area threshold to a “net” acre from a full acre.
- Update the list of regulated animals.

Mr. Sheffield advised that the current regulations regarding the number of animals do not take into account the possibility of animal procreation, which would raise the livestock number to three. He advised that the recommendations would allow the infant animal to stay with the mother for up to one year and would make an allowance for “project animals” of recognized student groups.

Mr. Sheffield stated that another issue to be addressed is the “animals per acre ratio.” He noted that requests for higher livestock ratios require a Special Use Permit process through the Board of Adjustment.

In response to a series of questions from Mayor Smith, Mr. Sheffield advised that 2/3 to 3/4 of the requests for changes to the regulations are generated by Lehi residents. He noted that many Lehi residents consider the current regulations to be adequate while others would like to be able to have additional animals.

Mayor Smith recalled that when Lehi was annexed into the City, many Lehi residents expressed concern that their rural lifestyle would be threatened by City regulations.

Councilmember Richins, noting that he represents the Lehi area, stated the opinion that the proposed changes represent an effort to restore reasonable regulations that are consistent with the rural nature of the area. He expressed support for the point system.

Mayor Smith said that City regulations should address extreme situations, but he stated the opinion that an individual purchasing property in Lehi should be aware of the rural lifestyle in the area.

Mr. Sheffield advised that staff was attempting to achieve a balance with regard to the livestock issues that maintains the historical rural Lehi lifestyle without negatively affecting other areas of the City.

Responding to a question from Mayor Smith, City Attorney Debbie Spinner advised that a Code change would be applicable Citywide. She said that a zoning change in the form of an overlay district could be created that applies only to Lehi or other specified areas, but that action would have implications with regard to Proposition 207. Ms. Spinner explained that any change to a zoning law, which includes creating an overlay district, would attach Proposition 207 implications if and when the Council decides to change that overlay. Ms. Spinner said that livestock is included in Title 8 as a privilege rather than a right.

Mr. Sheffield clarified that at the present time Lehi does not have an overlay district. He stated that Lehi has a sub-area plan, which includes a set of goals without a regulatory structure. He added that the livestock regulations apply to any property in the City with an acre or more of land regardless of the zoning category. Mr. Sheffield reviewed the “animals per acre ratio” for

other cities and the Community and Neighborhood Services Committee's recommendations (see Attachment 4).

In response to a question from Councilmember Kavanaugh regarding the point value for ostriches that reside in his district, Mr. Sheffield said that the point value for an ostrich has yet to be determined.

Mr. Sheffield reviewed the minimum lot threshold, the options and the recommendation to reduce the area to a "net" acre (see Attachment 5).

Responding to a question from Councilmember Richins, Mr. Sheffield advised that a property eligible under the City's regulations for livestock could be prohibited by the property's CC&Rs (Covenants, Conditions and Restrictions), which the homeowners' association is responsible for enforcing.

Mr. Sheffield responded to comments from Councilmember Higgins by stating that staff could provide an opportunity for public participation if that is the direction provided by Council. He also concurred that the proposed revision would align the City's regulations with those of the County, which could enable annexation of some properties into the City.

Councilmember Richins acknowledged the efforts of Mr. Sheffield and his staff in addressing these issues.

Mayor Smith expressed concern that the proposal may solve one problem and create another by permitting livestock in areas that traditionally have not had livestock, particularly in older neighborhoods that do not have CC&R's that prohibit livestock.

Councilmember Finter expressed support for the proposal.

Mr. Sheffield stated that the proposal includes a recommendation to update the list of animals in order to provide clarification. He also confirmed that swine are not permitted within the City.

In response to a suggestion by Councilmember Higgins that roosters be prohibited, Vice Mayor Jones noted that problems with roosters could be addressed through the noise ordinance.

Mayor Smith said that the consensus of the Council is for staff to move forward with the ordinance.

#### 4. Hear a presentation, discuss and provide direction on Form Based Codes.

Zoning/Civil Hearing Administrator Gordon Sheffield displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to provide an overview of Form Based Codes. He outlined the basic types of zoning regulations as follows:

- "Euclidean" which is based on a Supreme Court decision that intends to minimize impacts by separating land uses into "use-based" districts and controls "bulk requirements" such as setbacks, height, design, landscaping, parking, etc.

- “Performance” zoning extends the concept of land use separation in order to minimize conflicts by addressing buffers with additional requirements between different activities, such as commercial and residential development, and attempts to discourage conflicting land uses.
- “Form Based” codes emphasize the correct building form with design being secondary. Consideration is given to the manner in which a building can be utilized over a long period of time.
- “Hybrid” codes are a combination of the elements of each type of zoning. Staff is attempting to develop a hybrid approach because Mesa presently utilizes both Euclidean and performance zoning. The hybrid approach would enable the City to utilize the “best tool to fit the job.”

.Mr. Sheffield outlined the philosophical distinctions between the different types of zoning codes (see Attachment 6). He also reviewed the standard elements of Form Based Codes, as listed below:

- Overview/Administration/Definitions: An extensive use of graphs and tables.
- Regulating Plan: Where things go and to what form.
- Building Form Standards: Fundamental elements of building design.
- Public Space/Street Standards: How spaces “in-between” work.
- Land Use Matrix: Uses specific to building form.
- Pattern Books/Landscaping/Signs: Architectural details.

Mr. Sheffield stated that Duarny Plater-Zyberk and Company developed a model called Smart Code V9.2, which can be downloaded from the Internet, that provides an example of a Form Based Code and the manner in which it can be structured. He advised that Form Based Codes refer to “transects” rather than districts to identify areas of commonality with T1 being the most natural and T6 being the most intense urban development. Mr. Sheffield said that these transects serve as the basis for developing the form in that area. He outlined the manner in which Form Based Codes are implemented (see Attachment 7).

Discussion ensued regarding the development approach for the Mesa Gateway area community plan; that there is a natural transition between general uses through form; that staff is working with a Technical Review Committee in conjunction with the Zoning Update; that staff is attempting to avoid Proposition 207 issues; and that Euclidean Zoning states what cannot be done while Form Based Zoning outlines what can be done.

Mayor Smith stated the opinion that the Form Based approach expands the possibilities for land use and encourages developers to go beyond the basic standards to create other uses, which is likely to generate additional economic activity and value.

Mr. Sheffield advised that Form Based districts could be considered for the Fiesta District, the transit corridors and downtown Mesa. He noted that the Form Based approach is a recommendation in the Gateway Strategic Plan. Mr. Sheffield explained that a separate process similar to a sub-area plan would have to be implemented to develop a regulating plan to apply these particular transects to specific areas.

Mayor Smith complimented Mr. Sheffield for his efforts regarding these issues, and he thanked him for the presentation. He added that this proposal encourages business development and supports the strategic initiatives developed by the Council.

Councilmember Somers suggested that the Superstition Springs area be considered in the future for the Form Based approach.

Mayor Smith stated the opinion that the Form Based approach is needed from an economic development approach and as a quality of life issue.

Vice Mayor Jones concurred that Mr. Sheffield and his staff have done an outstanding job.

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

Councilmember Somers: Grand opening of nursing facility at Chandler-Gilbert Community College in the Gateway Area.  
District 6 Pancake Breakfast at Fire Station #205.

Vice Mayor Jones: Sister City Event in Guaymas, Mexico.  
Opening Day for Spring Training.  
Maricopa Association of Governments Council meeting.

Mayor Smith: Meetings with Federal agencies, White House staff, the Congressional delegation and the Conference of Mayors in Washington, D.C.

6. Scheduling of meetings and general information.

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

Saturday, February 28, 2009, 7:00 a.m. – District 1 Spring Clean-Up Event

Saturday, February 28, 2009, 8:00 a.m. – District 6 Building Strong Neighborhoods Event

Monday, March 2, 2009, TBA – Study Session

Monday, March 2, 2009, 5:45 p.m. – Regular Council Meeting

7. Prescheduled public opinion appearances.

a. Hear from James E. Gardner, Jr. regarding unlicensed contractors.

Mr. Gardner addressed the Council regarding the cancellation of his firm's contract with the City that had been in place for 14 years. He cited examples of jobs completed by his firm that resulted in substantial cost savings to the City.

Mayor Smith noted that Mr. Gardner has met individually with the Councilmembers to express his concerns. He advised that the City Auditor and the City Attorney have been instructed to investigate Mr. Gardner's allegations and report back to the Council.

8. Items from citizens present.

There were no items from citizens present.

9. Convene an Executive Session.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that the Council convene an Executive Session at 9:35 a.m.

- a. Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. §38-431.03A(4))

1. Corliss v. City of Mesa, CV 2006-015124

10. Adjournment.

Without objection, the Study Session adjourned at 9:35 a.m. and the Executive Session adjourned at 9:51 a.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, 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 26<sup>th</sup> day of February, 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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Attachments (7)