



COUNCIL MINUTES

January 22, 2001

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on January 22, 2001, at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Jim Davidson
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Neal Beets

Invocation by Pastor Roger Williams, Jr., Calvary Baptist Church.

Pledge of Allegiance was led by Mayor Keno Hawker.

Presentation of a national award from the Office of Juvenile Justice and Delinquency Programs in recognition of Mesa's Gang Intervention Program.

Councilmember Kavanaugh, Chairman of the Police Committee, provided brief background information relative to the nationally recognized Mesa Gang Intervention Program. Councilmember Kavanaugh advised that at the national conference in Washington, D.C., the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) acknowledged Police Chief Jan Strauss for her support of the Program. Councilmember Kavanaugh presented Chief Strauss with her award.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that the minutes of the January 3, 2001 and the January 8, 2001 Council meetings be approved.

Carried unanimously.

2. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified in these minutes with an asterisk (*) were approved with one Council action.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

3. Consider the following liquor license applications:

*a. DAVID G. CISIEWSKI, AGENT

New Beer and Wine Store License for Quicktrip #431, 1861 S. Mesa Drive. This is a new business, which is currently under construction. No previous liquor licenses at this location.

*b. NORMANDO M. RASCON, INDIVIDUAL

New Restaurant License for Mariscos La Playita, 1927 N. Gilbert Road, #6. This is an existing business and building. The Restaurant License previously held at this location by Manuel Gutierrez Reyes, Agent, El Sombrero Mexican Restaurant, will revert back to the State.

4. Consider the following contracts:

*a. Rifle ammunition for the Police Department's First Response team.

The Purchasing Division recommends accepting the bid by San Diego Police Equipment Company, Inc. at \$27,959.40.

*b. Hardware to support the computer network environment as requested by the Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Ames Office Automation, Inc. for a total of \$61,647.31.

*c. Two-year contract for maintenance of treatment plant pumps and deep well pumps on City-owned wells in Maricopa and Pinal Counties as requested by the Utility Operations Division.

The Purchasing Division evaluated the bids and recommends awarding the following contracts:

For Pinal County wells: awarding the contract to the low bid by Talon Resources, Inc. dba Duncan Pump for annual repairs estimated at \$50,000.00.

For Maricopa County wells and City treatment plant pumps: exercising the two-year renewal option with the original lowest overall bidder, The B.L. Weber Group, for annual repairs estimated at \$85,000.00.

The combined award is \$135,000.00 based on estimated annual requirements.

- *d. Two-year supply contract for manhole insecticidal coating as requested by the Utility Operations Division.

The Purchasing Division recommends accepting the bid by Jabco, Inc. at \$42,021.00 based on estimated annual requirements.

- *e. Two replacement outfront rotary mowers as requested by the Parks, Recreation and Cultural Division.

The Purchasing Division recommends accepting the low bid meeting specification by A to Z Equipment Sales at \$14,998.00 plus 7.5% sales tax of \$1,124.85 for a total of \$16,122.85.

- *f. Two-year renewal of the supply contract for household paint and related sundry supplies. Several City departments including Facilities Maintenance, Parks Maintenance, Solid Waste and Street Maintenance use this contract.

The Purchasing Division recommends exercising the two-year renewal option with Frazee Industries, Inc. at \$60,000.00 based on estimated annual requirements.

- *g. Two-year renewal of the supply contract for traffic control signs as requested by the Transportation Division.

The Purchasing Division recommends exercising the two-year renewal option with the original low bidder, Safeway Sign Company, at \$65,255.30 based on estimated annual requirements.

- *h. Sixteen self-contained breathing apparatus units as requested by the Police and Fire Departments.

The Purchasing Division recommends accepting the low bid by Fisher Scientific, L.L.C. at \$51,462.72.

5. Introduction of the following ordinances and setting February 5, 2001 as the date of public hearing on these ordinances:

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- *a. **Z00-72** 3720 East Baseline Road. Site Plan Review (1± acres). This case involves the development of a tire store and lube shop.
- *b. **Z00-86** The northeast corner and the southeast corner of Ellsworth Road and Brown Road. Rezone from Maricopa County R-2, R1-8, R1-7, R1-7 RUPD, Rural 43 and C-2 to City of Mesa R-2, R1-7, R1-7PAD, R1-43 and C-2 (± 172 acres).

- *c. **Z00-87** Property bounded on the north by Warner Road, south by Ray Road, west by RWCD canal and east by Ellsworth Road. Rezone from Maricopa County ADII, ADIII and Rural 43 to City of Mesa M-1-AF and AG-AF (\pm 1571 acres).
- *d. **Z00-88** The northeast corner of Ellsworth Road and Brown Road. Rezone from R1-43 to R1-6 PAD (\pm 5 acres). This case involves the development of patio homes.
- *e. **Z00-89** The southwest corner of Crismon Road and Superstition Freeway. Modification to the PAD (\pm 32.7 acres). This case involves a modification to setback specifications.
- *f. **Z00-92** The 2700 block of East McKellips Road (north side). Site Plan Modification (\pm 5 acres). This case involves the development of a mini-storage facility with RV parking, and the deletion of offices from a previously approved plan.
- *g. **Z00-93** The southeast corner of Signal Butte and Baseline Road. Modification of the Sunland Village Springs DMP and rezone from R1-6 (conceptual R-2) to R-2 and R-2 PAD (\pm 22 acres). This case involves the development of an RV storage area and multi-residential.
- *h. **Z00-94** 4125 East Valley Auto Drive. Site Plan Review (\pm 2.5 acres). This case involves the development of an office/warehouse project.
- *i. **Z00-95** The 4900 block of East Inverness Avenue (south side). Site Plan Modification (\pm 1 acre). This case involves the development of office condominiums.

6. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an Intergovernmental Agreement between the State of Arizona Department of Transportation and the City of Mesa for the construction of a multi-use path from Pennington Road south through Palo Verde Park and across the Western Canal – Resolution No. 7611.
- *b. Authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Governor’s Office of Highway Safety – Resolution No. 7612.

7. Consider the following ordinance:

- *a. Prohibiting parking on the north side of Pueblo Avenue from Val Vista Drive to a point 285 feet west of Val Vista Drive, on the south side of Pueblo Avenue from Val Vista Drive to a point 255 feet east of Val Vista Drive, and on the west side of Mulberry from a point 400 feet north of Broadway Road to a point 995 feet north of Broadway Road; removing the parking prohibition on the north side of Pueblo Avenue from 38th Street to a point 255 feet east of Val Vista Drive, and on the south side of Pueblo Avenue from halfway between 33rd Place and 34th Place to a point 285 feet west of Val Vista Drive; as recommended by the Transportation Advisory Board – Ordinance No. 3850.

*8. Consider a resolution and ordinance relating to modifications of natural gas rates – Ordinance No. 3851 and Resolution No. 7613.

*9. Write-off of utility and miscellaneous accounts in the amount of \$185,382.00.

10. Consider the following recommendation from the General Development Committee:

- a. Recommend proceeding with implementation of the recommendations of the Day Labor Task Force which include:
- The City of Mesa should actively support the efforts of the State and Federal government to create the programs or law changes needed for day laborers to work in the United States legally;
 - The City of Mesa creating a day labor work center, available to all workers regardless of their immigration status, where workers and employers will be encouraged to go to conduct their employment transactions (other criteria will be identified separately). The City of Mesa should vigorously enforce existing local ordinances and State laws to encourage both employers and day laborers to continually use the day labor work center. This includes laws such as impending traffic, loitering, trespassing, and public urination;
 - The Task Force strongly recommends that before a day labor work center is created, a feasibility study should be completed and the center be operated as a pilot project of at least one year, then evaluated before a more permanent program is created.

Karl Millsaps, 220 South Hobson, voiced opposition to this issue and expressed concerns regarding the establishment of a day labor work center in Mesa and its possible location. Mr. Millsaps stated the opinion that the City will violate both State and Federal laws.

Mary Lou St. Cyr, 724 South Kachina Lane, voiced support for the motion and commented that it is imperative that Mesa assume a leadership role in its efforts to resolve such a divisive issue and become a model for the East Valley, the State and the nation.

Manny Cortez, 2837 East Emelita, spoke in strong support of a day labor work center and emphasized the fact that Mesa has the ability to emulate the Brea, California day labor work center program which has achieved great success.

Phil Austin, 215 North Robson, a representative of the Mesa Association of Hispanic Citizens, urged the Council to vote in favor of the motion. Mr. Austin also concurred with the comments of Mr. Cortez regarding the Brea, California day labor work center program and stressed the fact that Mesa must deal with the economics and the reality of immigration in a proactive manner. Mr. Austin also commended the City and the Day Labor Task Force for their dedication and effort relative to this issue.

Councilmember Walters, Chairman of the General Development Committee, explained that it was the consensus of the Committee that the creation of a day labor work center in Mesa was an extremely important issue. Councilmember Walters commended the Day Labor Task Force for their dedication in the formulation of a concise and thorough report.

Councilmember Walters said that the issue of day laborers did not surface as a result of the Day Labor Task Force study, but has existed in Mesa for many years; the fact that not all day laborers are illegal aliens; the fact that the members of the General Development Committee, as well as the entire Council, have garnered input from numerous State and Federal agencies with regard to this situation, including the Immigration and Naturalization Service (INS), and the fact that this issue reaches far beyond the City of

Mesa and has been addressed in Brea, California and Los Angeles, California through the successful establishment of day labor work centers.

Councilmember Walters clarified her reservations relative to supporting the General Development Committee's motion and stated the opinion that it is imperative that the Council obtain detailed information regarding the creation of a day labor work center including funding, location and operational details.

Councilmember Kavanaugh advised that the City and the Council are charged with protecting the public health, safety and welfare of all of its residents, including year-around individuals, winter visitors, legal and illegal aliens, and also its neighborhoods and businesses. Councilmember Kavanaugh noted that the day labor issue has created a situation in which neighborhoods and businesses are being harmed and individuals are placing themselves at risk. Councilmember Kavanaugh added that the Council has a legitimate interest in thoroughly and competently reviewing this topic.

Councilmember Kavanaugh offered a revised motion for Council approval as follows:

- That the City actively support the efforts of the State and Federal government to create the programs or law changes needed for day laborers to work in the United States legally;
- That the establishment of a day labor work center or centers in Mesa is an appropriate response to a complex social issue in our community and should serve to bring workers and employers together to conduct employment transactions in a way that should lessen the impact such transactions may have on neighborhoods and businesses;
- That City staff conduct or cause to have conducted an operational study to develop further information and recommendations regarding possible center location(s), funding, outreach, center oversight, number of day laborers, necessary capacity, service offerings, and operating policies and procedures, with the results of the study and recommendations reported back to the City Council no later than June 1, 2001 to permit budgetary and other decisions regarding the center to be made for the next fiscal cycle. If the center becomes operational, the recommendations of the Task Force will be followed and the center operated on a pilot basis for one year. Thereafter, an evaluation and report of its operations shall be made to the Council on an annual basis;
- That if a center becomes operational, the City shall vigorously enforce existing local ordinances and State laws to encourage both employers and day laborers to continually use the day labor center.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that Councilmember Kavanaugh's motion as listed above be approved.

Councilmember Pomeroy voiced support for Councilmember Kavanaugh's motion and stressed the fact that completion of the operational study must be accomplished prior to a determination by Council as to whether to proceed with the actual construction and operation of a day labor work center. Councilmember Pomeroy emphasized that such a study conforms to the recommendations of the Day Labor Task Force as contained in their Final Report.

Vice Mayor Davidson advised that as a result of an extensive, nine-month evaluation of this issue, it is the recommendation of the Day Labor Task Force that a work center is a viable solution to address the day labor problem along the Broadway Road corridor. Vice Mayor Davidson stated the opinion that an additional operational study is not in keeping with the recommendations of the Task Force and suggested that staff provide monthly reports to the Council detailing the center's proposed location, funding and associated construction and operational issues. Vice Mayor Davidson also voiced concerns regarding Councilmember Kavanaugh's motion in that if the present Council or a future Council does not proceed with this matter, the recommendations of the Task Force could potentially be abandoned. Vice Mayor Davidson urged the Council to commence with the construction of a day labor work center and to reevaluate its viability on an annual basis.

Councilmember Whalen noted that he will vote in favor of Councilmember Kavanaugh's motion and said that the operational study is a necessary tool to enable the Council to render an informed and thoughtful decision regarding this issue. Councilmember Whalen added that despite the fact many residents in the community would prefer that the day laborers' presence in the City be eliminated, these workers represent a labor pool of individuals who perform a variety of tasks which would otherwise not be completed. Councilmember Whalen also spoke in support of the day laborers and their efforts to improve their lives.

Councilmember Jaffa concurred with Councilmember Walters' comments and emphasized the fact that the day labor issue represents a national crisis which currently has no productive solutions.

In response to a question from Councilmember Jaffa regarding potential liability for the City or the Councilmembers with the establishment of a day labor work center, City Attorney Neal Beets clarified that if a center was opened, it would not be staffed with City of Mesa employees. Mr. Beets advised that the City would provide a facility in which employers could hire potential employees, and that it would be the responsibility of the employer to comply with all local, County, State and Federal laws. Mr. Beets added that the center would also be open to inspection by the INS or any other law enforcement agency.

Councilmember Jaffa commented that as a result of the City Attorney's legal opinion, he will support Councilmember Kavanaugh's motion.

Councilmember Walters explained that her reasoning for voting against the General Development Committee's motion was based on her support for obtaining additional information related to funding and site location. Councilmember Walters stressed that the day labor work center should be operated by a nonprofit agency as opposed to City staff, and that the development of a Request for Proposals (RFP) is a necessary step in the process. Councilmember Walters said that she will vote in favor of Councilmember Kavanaugh's motion. Councilmember Walters also voiced concerns relative to intermittent enforcement by the INS relative to this issue.

Mayor Hawker expressed the opinion that changes should be made to the Federal law with regard to day laborers who are legally residing in the United States; the fact that only the INS is empowered to verify an individual's citizenship status; the fact that the day laborers that are legally in the country are seeking and performing jobs which are not filled by the existing labor force. Mayor Hawker also stated the opinion that ineffective border enforcement is forcing Mesa to establish a day labor work center to address the illegal alien issue.

Mayor Hawker concurred with the opinions of the other Councilmembers and invited the surrounding communities to join Mesa in resolving this issue. Mayor Hawker expressed support for Councilmember Kavanaugh's motion.

Vice Mayor Davidson stated that although Councilmember Kavanaugh's motion provides the Council with an opportunity not to implement the recommendations of the Task Force, based on his belief that the Council should reach a consensus on this issue, he will vote in support of the motion.

Councilmember Whalen concurred with Mayor Hawker's comments and strongly encouraged other Valley cities to take an interest in this issue.

Councilmember Jaffa stressed the fact that if the center is established, it will be operated on a pilot basis for one year and that the Council will evaluate its operation on an annual basis.

In response to a question from Councilmember Jaffa, Mr. Beets reiterated that the INS is the only agency empowered to enforce Federal law relating to an individual's immigration status.

Councilmember Kavanaugh directed staff to provide the results of the operational study to the Council in a timely manner to enable the Council to make appropriate decisions during the upcoming budget process. Councilmember Kavanaugh thanked the Council for their full support on this critical issue.

Carried unanimously.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:53 p.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 Regular Council Meeting of the City Council of Mesa, Arizona, held on the 22nd day of January 2001. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2001

BARBARA JONES, CITY CLERK