

COUNCIL MINUTES

August 29, 2002

The City Council of the City of Mesa met in a Special Council Meeting in the lower level meeting room of the Council Chambers, 57 East 1st Street, on August 29, 2002 at 7:30 a.m.

COUNCIL PRESENT

Mayor Hawker
Rex Griswold
Dennis Kavanaugh
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

Kyle Jones

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

Vice Mayor Kavanaugh excused Mayor Hawker and Councilmember Jones from the beginning of the meeting.

1. Convene an Executive Session.

It was moved by Councilmember Whalen, seconded by Councilmember Walters, that the Council enter into an Executive Session.

Motion carried unanimously by those present.

2. Adjournment.

Without objection, the Special Council Meeting adjourned at 7:31 a.m.

3. Reconvene Special Council Meeting following an Executive Session.

The Special Council Meeting reconvened at 8:11 a.m.

4. To consider and, if deemed advisable, to adopt a resolution providing for the issuance and sale of Street and Highway User Revenue Refunding Bonds, Series 2002, of the City of Mesa, Arizona – Resolution No. 7896.

Assistant Financial Services Director Larry Given introduced Keith Husk from the firm Gust-Rosenfeld, the City's Bond Counsel, to the members of the Council. Mr. Given stated that over the last several weeks, Staff has been working on the reactivation of a refunding program in the Street and Highway User Revenue Bonds because of the fact that interest rates are at the lowest level in almost 40 years. He added that Staff has been able to rapidly accelerate a sale within the last two weeks in order to take advantage of market conditions and the purpose of this agenda item is to seek Council approval of the issuance of refunding the bonds. Mr. Given provided a brief overview of this issue and reported that as a result of this action, the City will realize an approximate \$765,000 in savings this fiscal year in addition to approximately \$95,000 next fiscal year.

Mr. Husk addressed the members of the Council and referred to the resolution before them for consideration and approval. He stated that the total amount of the issuance is \$31,985,000 and added that the proposed resolution authorizes new bonds at the new interest rate. He added that the money will be used to purchase U.S. government securities, which are held to pay off the old bonds.

MOVED BY VICE MAYOR KAVANAUGH, seconded by COUNCILMEMBER WALTERS, that Resolution No. 7896 be adopted.

Mayor Hawker announced that Councilmember Jones had an engagement he could not cancel and was excused from the meeting.

MOTION CARRIED UNANIMOUSLY by those present (6 to 0) and Resolution No. 7896 adopted.

5. Hear an update on issues regarding the Multipurpose Facility.

City Attorney Debbie Spinner stated that a Tourism and Sports Authority (TSA) Board Meeting will be held this evening for the purpose of making a final site selection. She said that the cities of Glendale and Mesa are in the running and the City's agreements have been finalized. Ms. Spinner added that Staff is presenting an amendment for the Council's consideration at this time and explained that the only item that the Council is being asked to consider is whether to amend the Development Agreement that they approved on August 12th to extend the deadlines for the TSA, the Cardinals, the Hurley's lease payment and lease agreement, which is expected to be completed today, and an additional agreement regarding the suite arrangement. She explained that in accordance with the agreement approved on August 12th, those documents had to be signed before the TSA could accept the City's offer. Ms. Spinner said that the Council is now being asked to consider whether to amend that agreement to allow the TSA to sign the City's documents, submit them to the Governor and then continue to work with the Cardinals to execute the side agreements listed above. She noted that if the Council agrees to proceed with the amendment, the TSA can submit the City's documents prior to getting the Cardinals to sign the agreement. She added that should the Council decide not to proceed with the amendment, the TSA will still be required to obtain the Cardinals' signature on the agreements before they can accept the City's proposals.

Mayor Hawker stated that Vice Mayor Kavanaugh has to attend a 9 o'clock court hearing in Phoenix and said that he would allow him to make his remarks at this time so that he can be excused from the meeting.

Vice Mayor Kavanaugh stated the opinion that some confusion exists regarding what the Council is actually being asked to do at this time and said that he believes it would not be appropriate under this agenda item to move to withdraw the agreement that has been submitted even if that was the desire of the Council. He asked Ms. Spinner for input on this issue.

Ms. Spinner agreed with Vice Mayor Kavanaugh's summation and said that withdrawal is not part of the agenda and could not occur. She emphasized that the only issue the Council is being asked to consider at this time is an amendment related to a timing decision on the document that the Council has already approved.

(Mayor Hawker excused Vice Mayor Kavanaugh from the remainder of the meeting.)

6. Discuss and consider a Resolution authorizing the City Manager to enter into an Amendment to the Development and Disposition and Intergovernmental Agreement (DDA) between the TSA and the City of Mesa to:

- A. Extend the deadline for the completion of various agreements required by the DDA.
- B. Amend the Acceptance provision to allow the TSA to move forward with the project.

In response to a request from Mayor Hawker, Ms. Spinner stated that the TSA, by statute, is subject to a September 12th deadline and executed documents must be presented to the Governor and the Attorney General by that date. She added that another deadline that must be met, although not by statute, is one whereby the TSA must let the County Clerk know by next Tuesday at 5:00 p.m. whether they can satisfy their statutory obligation and if they cannot, they will have to expend funds for the publicity pamphlet. She said that the TSA therefore wants to take action before that deadline so that the publicity pamphlet costs can be avoided if at all possible.

Ms. Spinner advised that if the Council approves the amendment, the TSA can then sign the City's documents if Mesa is selected as the final site, submit them to the Governor before the Tuesday 5:00 p.m. deadline date, and avoid the costs associated with the publishing of the publicity pamphlet. She noted that this would result in extra time during which the Cardinals could be encouraged to sign their required agreements. Ms. Spinner also informed the members of the Council that if the TSA were to select Glendale as the site at their meeting this evening, the proposed amendment would allow the TSA to designate the City of Mesa as a "backup" site and to proceed in that manner. She added that should something happen between now and September 12th, if Mesa is not selected this evening and if the Council does not approve this amendment, the TSA can still come back, sign the City's agreements and submit them to the Governor to satisfy their obligations.

Ms. Spinner further clarified that if the TSA selects the City of Glendale tonight and in October for whatever reason that agreement does not go forth, the result would be the same under the current development agreement as it would be under this proposed amendment, and that is that the City's offer expires on September 12th. She added that if something were to happen in October, Staff would bring this forward to the Council and they would then have to consider the development agreement and the ground lease agreement. She noted that the funding would

not have to be considered again since that has already been approved and by October will have gone through the election process.

Councilmember Whalen provided a brief overview of recent events surrounding this issue and noted that several weeks ago as the City of Tempe site came forward, discussion took place regarding imposing a \$4 surcharge on tickets for parking at that site. He said that this had never been offered to the City of Mesa and added that when he and Mayor Hawker met with Cardinals' representatives several months ago, they broached the subject of a ticket surcharge and were told that the NFL would never agree to placing a surcharge on the tickets. He stated that when news of Tempe's proposed surcharge surfaced, the City's concerns regarding the fact that the playing fields for stadium site candidates was not level, the City of Mesa was contacted by the Arizona Cardinals and told to submit numbers regarding the imposition of a surcharge. Councilmember Whalen said that Staff put together the requested numbers, which indicated that a ticket surcharge would fund approximately \$32 million of the City's costs and would result in a substantial profit for the City. He advised that the numbers were submitted approximately two weeks ago and to date no response has been received from the Arizona Cardinals regarding this matter.

Councilmember Whalen also advised that discussions took place with the Arizona Cardinals regarding the possibility of that organization taking the revenue stream from the \$32 million and funding the infrastructure, negating the necessity of having to bond. He said that to date the Cardinals have not responded to this proposal either or to one that involved working with the City of Tempe and that City's willingness to consider a \$3 million reduction in the training site penalty that the Cardinals would have to pay if the team left that City.

Councilmember Whalen also commented on the Hurley property and Mr. Hurley's request for a suite. He said that in a meeting held yesterday with members of the Hurley family, they indicated that if the Arizona Cardinals opted to purchase their land, they would be willing to lessen their suite requirements. He added that this information was also passed on to the Cardinals and no response has been received.

Councilmember Whalen stated the opinion that the City of Mesa has been extremely reasonable and forthright throughout the process but has not received the same treatment in return. In addition, there has not been a level playing field and Mesa's treatment by the Arizona Cardinal's organization leaves much to be desired. He added that unless something substantial happens within the next five to six hours, his recommendation is that the City proceed on its course and added that the election will happen and he looks forward to seeing the results in the future.

Mayor Hawker stated that he does not understand why the City of Mesa was originally told it could not impose a surcharge and then the cities of Tempe and Glendale were told that this was an option they could pursue. He commented on the fact that in the field of athletics there are consistent rules and everyone knows the rules and follows them. He said he cannot understand why different rules applied to different cities in this situation.

Councilmember Walters clarified that withdrawing today is not even an option and explained that the agenda does not contain an item that would allow this to occur. She explained that the Council must abide by State laws, in particular the Open Meeting Law, which limits the Council to acting on agenda items that were posted at least 24 hours in advance. She said that the

Council can decide not to make a motion at this time, make a motion to continue this, make a motion to approve the DDA or even make a motion to do nothing at all.

Mayor Hawker stated that he believes the Council will vote to move forward as it currently stands and added that the election will take place. He said that he has received speaker cards from citizens regarding this issue and encouraged them to present their remarks at this time.

John Goodie, 1535 North Horne, spoke in support of siting the stadium in Mesa rather than Glendale and stated the opinion that the stadium will ultimately be constructed within the City of Mesa. He commented on the positive impacts the stadium would have on Mesa and surrounding communities and encouraged the citizens of Mesa to vote in support of the stadium on election day.

Diane Woods spoke in opposition to the construction of a stadium in Mesa said that the citizens deserve an opportunity to vote on this issue. She stressed the importance of allowing the vote to take place. She added that if the stadium in Mesa ever did become a reality she hopes that the City would take specific action to protect the neighborhoods and citizens' rights and property values.

Richard Campbell, 1026 West 2nd Street, said that he has performed extensive research on this issue and determined that the City of Mesa does not need a stadium or multipurpose facility. He noted the existence of a number of convention centers, stadiums and venues for large activities that already exist and added the opinion that the citizens of Mesa would be financially penalized if a stadium were to be developed within the City. He agreed that the citizens should have an opportunity to vote on this issue.

Richard Byrne, 9456 East Northridge Street, asked whether there was any situation that could occur that would cancel the vote on this issue. Mayor Hawker stated that Staff will respond to citizens' comments after all input has been received.

Mayor Hawker announced that the following citizen indicated support for the stadium but did not wish to speak:

Jack Sellers 13303 S. Ellsworth Road

There were no additional citizens wishing to speak at this time.

In response to a request for input from the Mayor, City Attorney Debbie Spinner informed the members of the audience that the Council will not take any action at this meeting that will impact the referendum election scheduled for September 10th. She reiterated that the Council must adhere to the Open Meeting Law. She also responded to a comment from a citizen and stated that Riverview Golf Course will eventually have to be removed and replaced with parking and added that the softball fields are being moved and will be replaced just a little further west from where they are currently located.

Councilmember Thom commented said that the amended DDA says that the City of Mesa can be used to fulfill the TSA statutory obligation and then will have the ability to select another site. She added that this will also allow the TSA to select Mesa as a backup site and compared this

action to a couple who decide to marry and take out a license and then the groom says "wait a minute, I want to have a substitute."

Councilmember Walters emphasized that she is committed to allowing the vote to go forward and added that although citizens can ask the individual Councilmembers their opinions regarding this matter outside of the meeting, the Council has absolutely no ability today to vote as a Council to withdraw and stop the election.

Councilmember Whalen stated that there is nothing on the forefront that would preclude the City of Mesa having a vote on this issue. He added that should anything develop days prior to the election, the Council would have a full discussion with public input before that issue would ever be decided. He noted that the City Council has been open and honest regarding this issue from the beginning and will continue to act in that manner on this and all issues that come before them.

In response to a question from Councilmember Griswold, Mayor Hawker said that he believes that the Council is leaning in the direction of confirming that there will be no action on Item No. 6.

Councilmember Griswold indicated support for proceeding in this direction.

It was moved by Councilmember Walters, seconded by Councilmember Griswold, that the Council not act on Agenda Item No. 6. Motion carried unanimously by those present with Vice Mayor Kavanaugh and Councilmember Jones excused from the meeting.

7. Items from citizens present.

In response to comments from Diane Woods, Mayor Hawker confirmed that with the Council's action at this meeting the election on September 10th will proceed as planned. He added that the results will be published and tallied.

Mayor Hawker thanked all of the speakers for their comments.

8. Adjournment.

Without objection, the Special Council Meeting adjourned at 8:57 a.m.

KENO HAWKER, 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 Special Council Meeting of the City Council of Mesa, Arizona, held on the 29th day of August 2002. 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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