

COUNCIL MINUTES

October 10, 1997

The City Council of the City of Mesa met in a Special Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on October 10, 1997 at 7:32 a.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh
Wayne Pomeroy
Jim Stapley

COUNCIL ABSENT

Joan Payne

STAFF PRESENT

C.K. Luster
Wayne Balmer
Neal Beets
Denise Bleyle
Tanya Collins
Dennis Compton
Linda Crocker
Lauren DeVuyst
Kim Fallbeck
Lars Jarvie
Barbara Jones
Harry Kent
Karl Kohlhoff
Jon Kokanovich
Jeff Martin
Beth Miller
Ruth Ann Norris
Ellen Pence
Bryan Raines
Andrea Rasizer
Tom Remes
Becky Richardson
Doug Tessorf
Debbie Vickman
Mindy White
Ralph Wisz
Mark Woodward
Others

OTHERS PRESENT

Hector Benitez
Margie Frost
Bev Hart
Richard Manley
Chris Moeser
Scott Rhodes
Gary Stuart
Marilynn Wennerstrom
Marilyn Wilson
Others

Mayor Brown excused Councilmember Payne from the meeting.

1. Consider a resolution appointing an independent counsel to investigate allegations regarding Municipal Judges Harold Reeb and Robin Allen - Resolution No. 7109.

City Attorney Neal Beets introduced Mr. Gary L. Stuart, Senior Member of Jennings, Strouss & Salmon, and provided an overview of Mr. Stuart's extensive credentials and professional

affiliations. Mr. Beets briefly reviewed the proposed Retention Agreement and stated that Mr. Stuart would be charged with conducting a full, fair, and impartial investigation of the allegations regarding the conduct of Presiding City Magistrate Harold Reeb and City Magistrate Robin Allen.

In response to a question from Vice Mayor Gilbert, Mr. Stuart advised that if he is selected and appointed as the independent counsel in this matter, at the conclusion of the investigation it is his intention to prepare a detailed, written report and to deliver this report to the Mesa City Council. Mr. Stuart stated that he is aware of the importance of conducting an independent investigation and assured the members of the Council of his intention to provide such service.

Vice Mayor Gilbert, stated the opinion that an explicit separation must occur between the selected independent counsel and the members of the staff and City Council and added that Mayor Brown should be the 'contact' person for the investigation.

Discussion ensued relative to the fact that the City Council is conducting the investigation on behalf of the constituency which the members of the Council represent, and independent counsel's ability to contact either City Manager Charles Luster or City Attorney Neal Beets on an informational basis only with the clear understanding that neither Mr. Luster or Mr. Beets will provide Mr. Stuart with any direction or instructions relative to the investigation.

Vice Mayor Gilbert stated the opinion that the Mayor should be notified of independent counsel's intention to meet with members of the Council to obtain answers to questions and that all such meetings should be both public and formal.

Councilmember Kavanaugh advised that he endorses the selection of Mr. Stuart as independent counsel to investigate this matter and expressed the opinion that the investigation will be conducted in an independent and impartial manner.

Councilmember Giles commented on Mr. Stuart's exceptional qualifications and reputation. Councilmember Giles noted that although the selected independent counsel will be charged with providing recommendations and suggesting explicit courses of action to be taken, the members of the Council will ultimately bear the responsibility of drawing the ultimate conclusions based on the investigating counsel's input and recommendations.

Councilmember Kavanaugh strongly encouraged Mr. Stuart, if appointed independent counsel, to provide advice, guidance and opinions and concurred that the role of the City Council will be to evaluate the advice and opinions and either accept or disregard those recommendations.

In response to a question from Councilmember Stapley, Mr. Stuart discussed the importance of protecting the honor and integrity of the municipal court system and the reputations of Judge Reeb and Judge Allen while at the same time investigating the allegations which have been raised.

Mayor Brown emphasized the importance of conducting an open, public investigation into this matter.

In response to a request from Mayor Brown for clarification relative to comments contained in a letter submitted by Mr. Stuart, Mr. Stuart stated that Council input has provided a

clearer understanding of his intended participation in the investigation. Mr. Stuart informed the Council that if he is appointed as the City's independent counsel in this matter, all status reports relative to this investigation will be provided directly to Mayor Brown. Mr. Stuart also stated that should the Council involvement as a group be required at some point during the investigative process, Mr. Stuart will request an opportunity to address the issues at an open, public Council meeting.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that Resolution No. 7109, relative to the appointment of Mr. Gary Stuart as independent counsel to investigate the allegations regarding Municipal Judges Harold Reeb and Robin Allen be adopted.

Mayor Brown requested that the Council indicate their vote on the paper ballots provided by the City Clerk.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Stapley
NAYS - None
ABSENT - Payne

City Clerk Barbara Jones announced that the vote is six ayes and that Councilmember Payne has been noted absent.

Mayor Brown declared the motion carried unanimously by those present and Resolution No. 7109 adopted.

Mayor Brown thanked Mr. Stuart for his input and congratulated him on his appointment.

2. Adjournment.

Without objection, the Special Council Meeting adjourned at 8:09 a.m.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Session of the City Council of Mesa, Arizona, held on the 10th day of October 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 22nd day of October 1997

BARBARA JONES, CITY CLERK