



COUNCIL MINUTES

February 14, 2008

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 14, 2008 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Kyle Jones
Tom Rawles
Scott Somers
Darrell Truitt
Claudia Walters

COUNCIL ABSENT

Mike Whalen

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

(Mayor Hawker excused Councilmember Whalen from the entire meeting.)

(Councilmember Somers arrived at the meeting at 8:13 a.m.)

1. Review items on the agenda for the February 19, 2008 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: 6b, 6e (Whalen)

Items added to the consent agenda: 4b

Items removed from the consent agenda: 4c

2. Hear a presentation, discuss and provide feedback on the 2008 Major General Plan Amendment applications.

Senior Planner Wahid Alam displayed a PowerPoint presentation (A copy is available for review in the City Clerk's Office) and provided an extensive overview of the 2008 Major General Plan Amendment applications. He reported that the Council recently adopted a new land use category entitled Mixed Use Community (MU/C), as well as a Planned Community (PC) Zoning District, which was created to implement the MU/C category.

Mr. Alam explained that DMB Development (Case # GPMajor08-01) submitted the first Major General Plan Amendment application. He stated that the property, consisting of approximately 3,599 acres, is owned by DMB Mesa Proving Grounds LLC, the Arizona State Land Department

and the Flood Control District of Maricopa County. Mr. Alam noted that the property is situated south of Elliot Road between Hawes and Signal Butte Roads.

Mr. Alam indicated that Pacific Proving LLC, owners of the 1,699-acre Levine property, which is located at the southeast corner of Ellsworth and Ray Roads, filed the second major General Plan Amendment application (Case # GPMajor08-02).

In response to a question from Mayor Hawker, Grady Gammage, the applicant for DMB, clarified that the State Land Department authorized DMB to master plan the State Trust land that is included within the development's 3,599 acres. He explained that DMB would incur the planning costs and added that the State Land Department would divide the land into parcels and conduct an auction pursuant to the plan.

Discussion ensued relative to the land uses currently permitted on the DMB property (including State Trust and Flood Control land); and DMB's proposed General Plan Land Use map (See Attachment 1), which consists of MU/C.

Mayor Hawker commented that the Council previously viewed diagrams of the DMB property that included a golf course, a resort hotel and higher density. He said that in reviewing the maps, it now appears as though the process has "gone backwards," that the applicant is requesting only MU/C and would "come up with something later." Mayor Hawker expressed concern that the current Council would not be given the opportunity to offer input and view more refined plans and that such responsibility would be given to the new Council.

Planning Director John Wesley responded that the applicant has provided staff a written project narrative, but suggested that it might be beneficial if DMB also furnished supplemental maps and illustrations to accompany the narrative.

Councilmember Rawles stated that staff is simply presenting the Major Amendment to the General Plan to change the underlying zoning on the property. He added that it would also be necessary for the applicant to bring back its PC Zoning District designation, which would provide the Council with greater detail.

Vice Mayor Walters noted that a critical element not yet mentioned is the fact that the Major General Plan Amendment process takes a year to complete and said that the Council would not vote on the case until September.

Mayor Hawker expressed further concern that the existing General Plan Land Use map includes Mixed Use Residential for approximately half a mile along Ellsworth Road and questioned whether the proposed land use would jeopardize the departure pattern for Phoenix-Mesa Gateway Airport.

Mr. Wesley acknowledged that the departure pattern from the airport is an important issue and stated that it is crucial that the Council feel comfortable with the plan being presented.

Mr. Alam continued with his presentation and highlighted the employment generation and residential density numbers for the DMB property and State Trust land based on the proposed plan. He also spoke regarding the applicant's planning concept including, but not limited to, the creation of a place that attracts significant high-wage employers; strong connectivity with

Phoenix-Mesa Gateway Airport and ASU Polytechnic campus; a diverse/distinctive open space system; walkable neighborhoods; and embraces sustainability solutions for economic, environmental and social matters.

Mr. Alam requested Council input with regard to DMB's application boundary; job creation; single residence homes; higher density; phasing; and any other issues they may wish to address.

Mayor Hawker:

- Concurred with the application boundary.
- Appreciated DMB's master planning of the State Trust land.
- Impressed with the potential for 68,000 jobs that would be generated by the applicant's plan.
- Expressed concern regarding the possible location of single residence homes, especially in relationship to aircraft noise.
- Encouraged higher density and would be open to discussions regarding some type of high rise housing units situated below flight path corridors.
- Suggested that the phasing of development throughout the entire area be compatible and cohesive.
- Urged that Mesa, Arizona Department of Transportation (ADOT), Pinal County, Queen Creek and other interested entities coordinate with DMB, the State Land Department and Pacific Proving to ensure a coordinated transportation system in the area.
- Encouraged Pacific Proving to conduct preliminary work to determine whether the Levine property would complement or compete against DMB's property.
- Emphasized the importance of ensuring that the Phoenix-Mesa Gateway Airport not be negatively impacted by either DMB or Pacific Proving's developments. Would be willing to revert back to the existing General Plan to protect the airport.

Vice Mayor Walters:

- Concurred with Mayor Hawker regarding the application boundary.
- Supported DMB master planning the State Trust land in order to bring greater consistency to the area.
- In terms of job creation, urged that minimum and maximum "floor ratios" be included as a component of the zoning.
- Would consider single residence homes as a component of the development since the existing General Plan already allows for 1,400 acres of Medium Density Residential.
- Supported higher density when compatible with surrounding uses.
- The viability of the airport must be the primary consideration for DMB and Pacific Proving.
- Regarding the phasing of the development, it will take decades for its completion. It is essential that standards are in place and that the narratives and what is approved have standards in place that hold individuals to high minimum standards.
- It is imperative that the transportation connections from the DMB and Pacific Proving's properties to Arizona State University Polytechnic and the airport are in place.

Mr. Alam reported that with regard to the Levine property, the current land uses include Mixed Use Employment, Medium Density Residential, Business Park, Community Commercial, Light Industrial and Regional Commercial. He referred to the proposed General Plan Land Use Map for the property depicting MU/C. (See Attachment 2.)

In response to a question from Councilmember Jones, Andrew Cohen, a representative of Pacific Proving, clarified that when the Levine property was acquired, a 105-acre non-contiguous parcel owned by General Motors was also purchased as part of the original 1,799 acres. He noted, however, that the 105 acres is not subject to the General Plan Amendment.

Mr. Alam further highlighted Pacific Proving's employment generation numbers (29,000) and residential density numbers (2,000 to 3,000 dwelling units) based on the proposed plan; the applicant's project vision (to create an integrated employment and retail core); and the elements of the proposed development (employment and suburban cores).

Councilmember Jones commented on the MU/C land use designation being proposed for the entire property and asked what action the City could take to restrict housing south of the proposed freeway. He stated that he would prefer that the area remain Mixed Use Employment and Business Park.

Mr. Wesley acknowledged that staff had similar concerns and suggested that it might be appropriate to delete the applicant's request for MU/C south of the freeway.

Mayor Hawker concurred with Councilmember Jones' comments. He stated that although the MU/C designation provides greater flexibility to the applicant, he does not want its implementation to jeopardize "good land use planning."

Deputy City Attorney Donna Bronski provided a brief legal analysis relative to the MU/C land use category, the creation of the PC Zoning District and Community Plan (CP). She explained, in response to a question from Councilmember Rawles, that even if the Council adopted a MU/C land use category for the entire Levine property, they could legally deny an application, a development or a zoning request to place residential south of the freeway. Ms. Bronski also stated that all zoning decisions are legislative acts and added that as long as the Council's decision met the "reasonable person test," they would have full discretion in that regard.

Further discussion ensued relative to the fact that the City of Mesa does not have a prohibition against Community Facility Districts; that by filing this application, it is the intent of the applicant to gain greater flexibility in order to "manipulate" the land uses that were approved by the Council in 2006; that the applicant would continue to honor the commitment they made in 2006 to restrict residential to the area north of the freeway and retain an employment core south of the freeway; and the fact that modifying the General Plan does not change the underlying zoning.

Mayor Hawker thanked everyone for the presentation.

3. Hear a presentation, discuss and provide direction on the Transaction Privilege Tax license renewal.

Deputy City Manager Bryan Raines reported that today's presentation is in follow-up to the December 20, 2007 Study Session, at which time the Council directed staff to conduct a cost recovery analysis regarding the City's Transaction Privilege Tax (TPT) License renewal. He explained that the fees were set years ago by benchmarking with other cities and stated that the issue of cost recovery was not a consideration of the Council at that time.

Financial Services Operations Director Jenny Sheppard stated that staff proposes that full cost recovery for the tax program be calculated at approximately \$66 for the first year of the license, with ongoing annual costs estimated at \$53 per license. She noted that such amounts would include the Informational Technology Department's (ITD) costs to upgrade the sales tax application and implement online submittal functions.

Ms. Sheppard referred to a document entitled "Other Municipalities Fees and Statistics" and provided a brief analysis of the surrounding communities' TPT License fees and charges as compared to Mesa's. (See Attachment 3.)

Discussion ensued relative to the fact that ITD's programming and testing of a basic renewal process would take approximately six months to complete; that staff's estimated processing cost to issue a TPT License is \$12-\$13; and that on a monthly basis, staff processes sales tax receipts provided by approximately 25,000 TPC licensees.

Councilmember Rawles commented that staff is proposing full cost recovery for the tax program as opposed to implementing an initial application and annual renewal process for the TPT License. He stated the opinion that such action is "totally inappropriate" and added that Mesa taxpayers, in essence, would be required to pay the City to collect their taxes.

Further discussion ensued relative to the fact that the City received more than 5,000 new TPT license applications in FY 2006/07; that if the tax license program were eliminated, the City would not only lose \$275,000 in annual revenue, but also the ability to track which businesses are licensed in the City of Mesa; and that in the first seven months of this fiscal year, the City's audit assessments of Mesa businesses generated approximately \$3.5 million in sales tax receipts.

City Manager Christopher Brady stated that because Mesa is so dependent on its sales tax revenues, the City should be on the "leading edge" of sales tax collection. He explained that if the proposed fees were implemented in order to achieve full cost recovery of the tax program, the General Fund resources that currently subsidize the program could be reallocated for other City services.

Councilmember Somers commented that the proposed fees are "not a lot of money" if they are utilized in an appropriate manner and the necessary technology is implemented.

Councilmember Rawles further noted that he would not object to the City issuing a sales tax license in order to recover the cost of such a process. He also stated that he does not necessarily like the idea of a renewal license, but would be supportive of one if it were based on full cost recovery.

Vice Mayor Walters stated that in reviewing the "Other Municipalities Fees and Statistics" document, she prefers the Tempe model because the annual renewal fee differentiates between the annual gross taxable income of large corporations and small businesses. She added that she would prefer that the implementation of the proposed fees be "tracked" relative to when individuals can access the updated online functions.

Councilmember Jones said that he is not concerned about the amount of the application renewal fee. He noted that it is essential that staff have the ability to track Mesa businesses in order to collect sales tax revenues.

Mayor Hawker expressed support for the implementation of an initial application fee and annual renewal fee in the \$10 to \$15 range. He questioned, however, staff's proposed \$66 and \$53 fees because, in his opinion, Mesa businesses "go through some effort" to submit their tax receipts to the City.

Councilmember Truitt said that from a philosophical point of view, he concurred with Councilmember Rawles' comments. He noted that when staff made their previous presentation regarding this issue, he was not convinced that an initial application fee of \$13 would result in full cost recovery of the process.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that staff implement a \$25 Transaction Privilege Tax license application fee and a \$15 renewal fee.

Mr. Brady inquired if the motion was with the expectation of staff upgrading the online system. He explained that the City currently collects \$50 for the TPT license application fee and explained that such amounts have been forecast into the budget. Mr. Brady stated that if the "mix of fees" were modified, it would be necessary for staff to revise their forecast to assess the amount of funds that would be generated. He added that if the amount were less than current collections, Mesa would have insufficient funds to implement the new online system unless they were derived from an alternative source.

Councilmember Rawles and Vice Mayor Walters withdrew their motion and second to the motion. Councilmember Rawles directed staff to assess the potential generation of funds relative to the TPT license application fee and renewal fee.

It was moved by Councilmember Rawles that staff be directed to develop an ordinance that would include a \$25 application fee and a \$15 renewal fee (subject to staff's analysis regarding the potential generation of funds).

Vice Mayor Walters stated that realizing there may be a "cash flow issue" as outlined by Mr. Brady, she would withdraw her requirement that the implementation of the fees be tracked to when the City upgraded its online system.

Mayor Hawker inquired if Councilmember Rawles would include in his motion that staff be directed to issue a Transient One-Time Temporary Privilege License at a proposed cost of \$20.

Councilmember Rawles concurred with Mayor Hawker's suggestion.

Additional discussion ensued relative to the fact that per the Model Tax Code, every Mesa business is required to obtain a business license; that Mayor Hawker is aware of instances in which owners of strip centers, in which multiple businesses are located, have been issued only one TPT license for the entire property; and that at the March 27th Audit & Finance Committee meeting, staff would address this issue further.

Mayor Hawker stated that a second to the motion was unnecessary and that staff was directed to follow through with the Council's input.

Mayor Hawker thanked everyone for the presentation.

4. Hear a presentation, discuss and provide direction on the annexation process.

Deputy Building Safety Director Tammy Albright introduced Principal Planner Laura Hyneman, who was prepared to address the Council.

Ms. Albright displayed a PowerPoint presentation (A copy is available for review in the City Clerk's Office) and reported that in April 2007, the Council provided direction that all County Island parcels can now annex, including properties not located next to the City limits. She explained that the Council also directed that if the property owner of such a parcel requested City services, then the individual should apply for annexation. Ms. Albright added that the Council further directed that there be equity in development.

Ms. Albright stated that staff is currently considering new Building Safety Division and Planning fees, which would be presented to the Audit & Finance Committee immediately following today's Study Session. She explained that the proposals include an increase in the annexation application fee to \$500 plus \$100 per parcel; a reduction in the Transportation & Infrastructure Committee appeal fee to \$750; and the establishment of an annexation equity fee.

Ms. Albright further commented that staff proposes various changes to the Zoning Ordinance Annexation requirements which would outline the new process. She stated that on January 15, 2008, a draft of the new Annexation Guidelines was presented to the Planning & Zoning (P&Z) Board for discussion only and that the final changes to the document would be presented to the Board at its February 21st meeting.

Discussion ensued relative to modifications to the City Code that were presented at the December 13, 2007 Transportation & Infrastructure Committee meeting, including changes to the Terms & Conditions for the Sale of Utilities to remove the options for utility service without annexation; and changes to Title 9 to eliminate the exception that permits residential properties under one acre to develop without the responsibility for off-site requirements.

Ms. Hyneman provided a brief overview of the annexation application process. Her comments included, but were not limited to, the following: that in 2006, staff received 20 annexation applications and 45 in 2007; that the applications are distributed to various City departments for review; that staff identifies various service challenges in specific cases (i.e., emergency vehicle access and response time; hydrant locations and flow capacity; legal access for Utilities and Solid Waste vehicles, potential 911 issues related to addressing in-gated subdivisions, and various zoning issues).

Further discussion ensued relative to the fact that the Council considers each annexation request during the public hearing process that releases the petition and also when the ordinance is adopted; that staff intends to provide a more detailed analysis in each Council Report to assist the Council in determining whether a particular annexation is in the best interest of the City; and that such detailed analysis might increase the number of annexation cases presented to the Council with a recommendation of denial.

Ms. Albright stated that at the present time, if the Council determines that an annexation request is not in the best interest of the City, but the property owner wishes to pursue receiving City services, it is necessary for a new case to be processed through the Transportation & Infrastructure Committee. She requested direction from the Council as to whether the annexation process should be modified so that even if the Council denied the annexation request, they could grant utility service, if they so chose, at the same meeting.

In response to a question from Vice Mayor Walters, Ms. Albright clarified that based on the process that staff is establishing, it would be necessary for a property owner to agree to all of the conditions outlined by staff before the individual could present an annexation request to the Council for consideration.

Mayor Hawker stated that he looks forward to the discussions at the Council level and added that he is not interested in the City providing Fire and Police service to property owners who decided "at their own risk and knowledge" to build in a County Island.

Mayor Hawker stated that it was the consensus of the Council that staff modify the City's current annexation process so that if the Council denies an individual's annexation request, they could also consider whether or not to grant utility service at the same meeting. He added that he would prefer that the scope of services that the Council would review in their analysis include Police, Fire, Solid Waste and Utility services.

5. Appointments to boards and committees.

BOARD OF ADJUSTMENT

Linda Sullivan – Term Expires June 30, 2010

HOUSING GOVERNING BOARD

William Egan, Sr. – Term Expires December 31, 2008

HUMAN RELATIONS ADVISORY BOARD

Fahad Baig – Term Expires June 30, 2008

Ana Cadillo – Term Expires June 30, 2009

PARKS & RECREATION BOARD

Brian Etheridge – Term Expires June 30, 2009

PERSONNEL APPEALS BOARD

Claire Senga – Term Expires June 30, 2010

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the Council concur with the Mayor's recommendations and the appointments be confirmed.

Mayor Hawker declared the motion carried unanimously by those present.

6. Acknowledge receipt of minutes of various boards and committees.

- a. Judicial Advisory Board meeting held on December 5, 2007.
- b. Museum and Cultural Advisory Board meeting held on December 12, 2007.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that receipt of the above-listed minutes be acknowledged.

Mayor Hawker declared the motion carried unanimously by those present.

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

There were no reports on meetings and/or conferences attended.

8. Scheduling of meetings and general information.

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

Tuesday, February 19, 2008, TBA , Study Session

Tuesday, February 19, 2008, 5:45 p.m. – Regular Council Meeting

Wednesday, February 20, 2008, 7:30 a.m. – Joint Meeting with Dobson Association

Thursday, February 21, 2008, 7:30 a.m. – Study Session

Thursday, February 21, 2008, 9:00 a.m. – Transportation & Infrastructure Committee

Thursday, February 28, 2008, Study Session – Cancelled

Mr. Brady provided a brief summary of the City of Mesa's December 2007 Transaction Privilege License and Use Tax revenues. He explained that the City continues to see degradation in sales tax numbers and a significant decline in sales tax receipts from what was originally budgeted. Mr. Brady also noted that staff now anticipates a \$12.5 million shortfall and added that a summary of the January and February sales tax receipts would be presented to the Council in March.

Councilmember Rawles stated that he will be out of town for three weeks and would return on March 11th.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Study Session adjourned at 9:29 a.m.

KENO HAWKER, MAYOR

ATTEST:

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 14th day of February 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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(attachments – 3)