

# COUNCIL MINUTES

April 7, 2005

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 April 7, 2005 at 7:58 a.m.

## COUNCIL PRESENT

Mayor Keno Hawker  
Rex Griswold  
Kyle Jones  
Tom Rawles  
Janie Thom  
Claudia Walters  
Mike Whalen

## COUNCIL ABSENT

None

## OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

1. Discuss and consider a possible amendment to the Zoning Code that would allow bars, cocktail lounges, and similar "commercial recreation" uses in the C-2 district.

Zoning Administrator John Gendron and Assistant Financial Services Manager Jenny Sheppard addressed the Council relative to this agenda item.

Mr. Gendron provided a brief historical overview of the City's zoning ordinances with reference to the inclusion of bars, cocktail lounges and similar "commercial recreation" uses in the C-2 zoning district. He explained that within the past year, two individuals have come before the Council requesting Series 6 bar liquor licenses in the C-2 district and commented that such licenses issued by the State do not require the sale of food. Mr. Gendron also stated that there is nothing inherently wrong with the issuance of the Series 6 license in a C-2 district as long as the establishment is operated as a restaurant and the facility receives at least 40% of its gross revenues from the sale of food. He added that the difficulty the City has encountered in this regard is how to regulate the auditing of the food sales.

Mr. Gendron further commented that the Council requested that staff research the issue of amending the City's regulations in order to allow bars in C-2 districts and referred to several alternatives outlined in the March 28, 2005 City Council Report. He stated that because this is clearly a Council policy decision, staff has not made a recommendation. Mr. Gendron also indicated that if it is the direction of Council to change the Zoning Ordinance, staff would draft the amendment in final form, present it to the Planning and Zoning Board (P&Z) for a public hearing, the P&Z would make their recommendation, and the issue would come back to the Council for final action.

Mr. Gendron highlighted staff's three suggested alternatives as follows:

**Alternative 1: Do not amend the code. Bars would continue to be allowed in the C-3 and Industrial Districts. Existing Series 6 licenses in C-2 districts can continue to operate as nonconforming uses.**

**Alternative 2: Allow bars in the C-2 district, subject to a Council Use Permit (CUP).**

He outlined the criteria contained in the proposed Code amendment that the Council would use to assess each liquor license application for a bar in the C-2 district including:

- A plan of operation
- A "good neighbor policy"
- Substantial conformance with current site development standards
- A full-service kitchen to remain open during business hours
- A separation of at least 300 feet from an outdoor activity area to a residential district
- A separation of 300 feet from a church or school (State requirement)

Mr. Gendron stressed the fact that by utilizing a CUP, the Council has greater control over an establishment and commented that if there were repeated egregious violations of any Council conditions, they could revoke the permit. He noted, however, that the process by which to obtain a CUP is somewhat lengthy and can take up to four months to complete.

**Alternative 3: Allow bars in the C-2 district as a "use by right," with a Special Use Permit required for outdoor activity.**

Mr. Gendron explained that this amendment would allow "commercial recreation/entertainment" uses, including bars, as permitted uses in the C-2 district and said that no additional permits or public hearings would be required. He stated that with the adoption of such an amendment, the Council would have no control over the establishment and noted that if it were a public nuisance, there would be little the Council could do to correct such activities.

Mayor Hawker commented that he is leaning toward Alternative 2, but questioned how, because of the lengthy CUP process, the City would handle the 60-day timeframe within which to complete a review process and forward the Council's recommendation to the State Liquor Board.

In response to Mayor Hawker's inquiry, Mr. Gendron clarified that in his opinion, it would be prudent for an applicant intending to purchase a \$100,000 Series 6 license to research a local municipality's regulations prior to embarking on such an expensive commitment. He acknowledged, however, that if an individual applied for the license and subsequently learned that Mesa required the four-month CUP process, the person could withdraw his application from the State and forfeit various fees (\$100 for the State and \$100 for the City). Mr. Gendron added that the cost of the CUP is \$1,000.

Discussion ensued relative to the fact that the City of Mesa currently does not have the authority under its Zoning Ordinance to allow a Zoning Hearing Officer to hear, for example, CUP cases in an effort to expedite the permit approval process; that the final authority with regard to the approval of a CUP lies with the Council; and that staff does not foresee a proliferation of bars in

the C-2 district due to the fact that the State regulates the number of new bar licenses according to population growth.

Councilmember Griswold encouraged staff to conduct research relative to the expansion of allowable uses in the C-2 district.

Vice Mayor Walters expressed support for Alternative 2 and said she is not in favor of the City allowing the operation of bars throughout all C-2 areas.

Councilmember Thom voiced her preference for Alternative 3.

Councilmember Whalen expressed support for the Council Use Permit option and commented that during the recent applications for Series 6 licenses in the C-2 district, the Council faced certain time constraints from the State. He questioned how that could be remedied in the future, considering the fact that the CUP process is a lengthy procedure.

In response to Councilmember Whalen's inquiry, Mr. Gendron clarified that because most of the liquor license applications that come before the Council are brought by agents, those individuals will make certain that City staff notifies them if Mesa makes changes to its regulations.

Ms. Sheppard advised that when an individual applies for a Series 6 license, the State has 105 days to either recommend approval or denial of the request. She said that Mesa then has 60 days to respond and if it fails to do so, the State would consider that as a recommendation for denial and the applicant would proceed to a Liquor Board Hearing.

Councilmember Rawles commented that if the City allowed a bar in the C-2 district with a CUP, in his opinion, it is unnecessary to require a full-service kitchen to remain open during business hours. He also suggested the deletion of Section 6, Paragraph C of the Code amendment (Alternative 2) which reads as follows: "That the proposed location is necessary to adequately serve the public who wish to patronize the facility."

Further discussion ensued relative to the differences between a Council Use Permit and a Special Use Permit.

Councilmember Jones stated that he prefers Alternative 2.

Vice Mayor Walters commented that Special Use Permit applications are considered by the Board of Adjustment and said that despite the fact she receives inquiries from constituents on such cases, the Council is not allowed to "lobby" the Board concerning such issues.

Mayor Hawker advised that a majority of the Council prefers Alternative 2 and directed staff to draft an ordinance in that regard that includes the suggestions offered by Councilmember Rawles.

Mayor Hawker expressed appreciation to staff for the presentation.

2. Review and consider commenting on proposed alignments for the proposed 500 kV transmission line between the Santa Rosa and the Browning Substations as they affect the City of Mesa.

Councilmember Whalen stated that he does not have a personal conflict of interest regarding this item, but noted that because he is a member of the Arizona Power Plant and Transmission Line Siting Committee, he would refrain from discussing this item. He commented that he has also declared a conflict of interest with the Line Siting Committee because he is a Mesa Councilmember and said that the Committeemembers have agreed that he does not have a conflict because of those duties and can discuss and consider the matter.

Williams Gateway Area of Regional Economic Activity Project Manager Wayne Balmer provided a brief historical overview of the process in June 2002 when Salt River Project (SRP), on behalf of various agencies, began to consider building a new power line from the Palo Verde Nuclear Power Plant into the City of Mesa. He explained that the first phase of the project has been successfully sited from Palo Verde to the southeast Valley and that the Line Siting Committee is now considering several routes to determine the placement of the transmission lines from the Santa Rosa Substation to the Browning Substation located in Mesa.

Mr. Balmer referred to a map in the Council Chambers and highlighted the preferred alignment (blue line) and alternative routes to the north of Casa Grande (purple line) and to the south of Casa Grande (green line). He stated that the routes become important to Mesa due to the fact that the City owns approximately 11,600 acres between Coolidge and Eloy and explained that various concerns have been raised relative to the manner in which the development of the transmission lines would affect the property. Mr. Balmer added that the Coolidge City Council recommended that the Line Siting Committee select the green line route as the selected alignment through the area.

Mr. Balmer stated that it is staff's recommendation that City representatives attend the Power Line Siting Committee meeting tomorrow and acknowledge that although it is within the Committee's purview to select the alignment that they deem most appropriate, if the green line route is selected, the City would ask that the power line be placed as close as possible to Bartlett Road and the railroad tracks along the western edge of the City's property. He explained that the Siting Committee has the ability to place the line within a half-mile of the lines depicted on the map, and as the plans currently exist, the line would extend through the center of the City's property. Mr. Balmer added that if the City considers future industrial development or the eventual sale of the land, the transmission lines through the middle of the property and the railroad tracks to the west could impact such transactions.

Mr. Balmer advised that Kathie Lee and Dan Hawkins of SRP were in the audience and available to respond to any questions that the Council may have regarding this issue.

Councilmember Thom stated that in her opinion, Mr. Balmer is presuming that the City does not want the transmission lines to go across Mesa's property and requested that he provide an explanation.

Mr. Balmer clarified that what he is suggesting is that the City leave the selection of the most appropriate alignment up to the Line Siting Committee. He commented, however, that if they select the green line corridor, staff would prefer that it be located on the edge of Mesa's property so that it could be worked into the City's or someone else's future development plans. He

added that SRP builds the lines in the easement and the easement requirements are fairly restrictive in terms of development.

Councilmember Thom stated the opinion that the placement of a power line does not create a barrier that subdivides the property, so it can be sold in smaller parcels and thereby enhances the value. She commented that she has always supported the preferred alignment (blue line) and said that she would not offer any suggestion to the Line Siting Committee.

Discussion ensued relative to the fact that the green line route is longer in miles, but straighter than the blue line alignment and would be less expensive to build; and the ability to develop land near transmission power lines.

Vice Mayor Walters expressed support for staff's recommendation and commented that in her opinion, they have taken a "middle of the road" position. She also noted that the Council represents Mesa taxpayers and said that it is important that the Council protect the value of the City's assets.

Councilmember Rawles voiced support for staff's recommendation and stated that he feels it is a good compromise.

Councilmember Thom commented that she testified before the Line Siting Committee at one time and submitted a property value study she conducted in the Summer Mesa and Bradley Country Estates subdivisions in Mesa. She advised that the results of the study indicated that the presence of lattice towers in the yards of the subdivisions did not adversely affect property values.

City Manager Mike Hutchinson requested that Councilmember Thom provide him with a copy of the study.

Mayor Hawker stated that the majority of the Council are supportive of staff's recommendation.

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

Vice Mayor Walters	Public Forum on High School Reform; Bus Shelter Dedication at Mesa Community College; Blue Star Memorial Dedication
Councilmember Whalen	Public Forum at Mesa Junior High School
Councilmember Jones	Public Forum at Mesa Junior High School
Councilmember Thom	Arizona Department of Transportation Open House
Councilmember Griswold	Boy Scout Troop Meeting; Friends of the Tonto Meeting

Councilmember Rawles announced that this evening is opening night of the Southwest Shakespeare Theater Company's production of Henry V, which will be held at the Mesa Amphitheater.

4. Scheduling of meetings and general information.

City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Monday, April 11, 2005, 3:30 p.m. – Police Committee Meeting

Thursday, April 14, 2005, 7:30 a.m. – Study Session

Thursday, April 14, 2005, 9:30 a.m. – Finance Committee Meeting

Monday, April 18, 2005, 3:30 p.m. – Fire Committee Meeting

Monday, April 18, 2005, TBA – Study Session

Monday, April 18, 2005, 5:45 p.m. – Regular Council Meeting

Thursday, April 21, 2005, 7:30 a.m. – Study Session

Monday, April 25, 2005, 7:30 a.m. – Budget Hearing

Tuesday, April 26, 2005, 7:30 a.m. – Budget Hearing

Thursday, April 28, 2005, 7:30 a.m. – Study Session

Thursday, April 28, 2005, 8:00 a.m. – Budget Hearing

5. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

6. Items from citizens present.

There were no items from citizens present.

7. Adjournment.

Without objection, the Study Session adjourned at 9:02 a.m.

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KENO HAWKER, MAYOR

ATTEST:

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BARBARA JONES, 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 7<sup>th</sup> day of April 2005. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK