



COUNCIL MINUTES

August 17, 2006

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 August 17, 2006 at 7:30 a.m.

COUNCIL PRESENT

Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

Mayor Keno Hawker

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

(Vice Mayor Walters excused Mayor Hawker from the meeting.)

(Councilmember Jones arrived at the meeting at 7:35 a.m.)

1. Hear a presentation, discuss and provide direction on the Pinal County Land Sales Program.

Williams Gateway AREA Manager Wayne Balmer displayed a PowerPoint presentation in the Council Chambers and provided an extensive historical overview regarding the Pinal County Water Farm. (The PowerPoint presentation is available for review in the City Clerk's Office.)

Mr. Balmer explained that in May of this year, the Council established a goal of generating a minimum of \$10 million in revenues annually from Pinal County land sales (for the first ten years), and noted that the first \$9.6 million would be earmarked to retire the property's remaining bond debt. He stated that land values in Pinal County have risen dramatically in the past few years and commented that various portions of the City's property are located in areas in which development has already occurred and well suited for sale.

Mr. Balmer highlighted staff's proposals regarding the Pinal County Land Sales Program as follows:

- First sell the "freestanding" parcels surrounded by other private property and focus on the properties that have the greatest market value.
- Sell the least amount of acreage that generates the most revenue.
- Select properties for sale that increase interest in other Mesa properties in the area.
- Cooperate with adjacent development projects that would benefit Mesa.
- Respond to market changes as needed.

Mr. Balmer discussed various short-term strategies created by staff for Council consideration. He reported that given the City's property and the infrastructure currently available, it would be logical for staff to focus its attention on the area west of Coolidge where the residential market is the strongest. He stated that it is also essential that staff work with the surrounding communities to coordinate any land sales with the respective general plans, zoning and development patterns.

Discussion ensued relative to the fact that staff would hire a real estate broker to select four to six parcels (approximately 160 acres) to initially offer for sale, with a minimum sales price established; that the broker would market the properties, receive purchase offers and unsolicited offers; and that staff would consider the offers and make recommendations to the Council.

Mr. Balmer referred to a series of maps depicting the initial focus area. He commented that with regard to a long-term strategy, staff has proposed: 1.) That Mesa sells approximately one-third of the property over the first ten years (4,000 acres) and expands the process into the future; 2.) That the City participates with other property owners on larger scale projects that may involve land trades or Community Facilities Districts; and 3.) That the City continues to generate a long-term income stream from the sale proceeds.

Mr. Balmer requested that the Council review and provide direction on the proposed Pinal County Land Release Program, the recommended short-term and long-term strategies, and authorize staff to proceed with the program as outlined in the City Council Report.

Vice Mayor Walters noted that in previous discussions regarding the sale of the Pinal County Water Farm property, the Council clearly directed that the City would not use "one-time money for ongoing costs." She explained, as an example, that the City would not use sale proceeds to pay the salaries of Mesa police officers. Vice Mayor Walters stated that in addition, the Council also directed that the sale proceeds would be used to retire debt not linked to a revenue source.

Vice Mayor Walters further commented that although Mr. Balmer did not discuss the manner in which the sale proceeds would be used, she anticipates that the public would prefer to be apprised of such information. She added that it is essential for the City to continue to maintain an adequate water supply for its citizens.

Councilmembers Whalen, Rawles, Griswold and Jones voiced support for staff's proposed Pinal County Land Release Program.

Further discussion ensued relative to the Arizona Department of Transportation's (ADOT) ongoing corridor alignment study in Pinal County; the fact that the alignment currently under consideration would bring the freeway through Mesa's property on the north side of the Picacho Reservoir and include a series of freeway interchanges; and a possible regional mall located in the vicinity of State Highway 87 and Attaway Road.

In response to a series of questions from Councilmember Somers, Mr. Balmer clarified that beyond the first \$9.6 million in sale proceeds that will be used to pay off the property's remaining bond debt, any future monies would become a part of the City's budget process. He also suggested that it may be appropriate for the City to lease some of the more attractive commercial and industrial development properties to generate a long-term income stream or, as the properties are sold, to place the proceeds into an account to fund specific projects throughout the City.

Councilmember Somers expressed support for the proposed Pinal County Land Release Program. He also requested that staff research the most beneficial means by which to utilize the sales proceeds.

Councilmember Rawles cautioned that any decisions made by the Council relative to land sale proceeds could be modified by future Councils.

Vice Mayor Walters suggested that the Finance Committee have an opportunity to discuss and consider a plan regarding the use of the sale proceeds. She also urged that the property located in the path of future freeway corridors be protected and added that Mesa should place limits on the amount of land that is placed on the market for sale in any given year.

Water Resources Coordinator Kathryn Sorensen reported that the City has certain legal rights to pump groundwater at the water farm, but explained that the groundwater is not secure. She explained that as more development occurs in Pinal County under the auspices of the Central Arizona Groundwater Replenishment District (CAGR), Mesa's ability to pump groundwater is diminished. Ms. Sorensen stated that if the Council were concerned regarding Mesa's assured water supply portfolio, the City could join the CAGR and be assured of 100 years' worth of water that could be pumped beneath its surface area, which would be far less expensive than developing the Pinal County farm lands.

Vice Mayor Walters said that it is the consensus of the Council that staff proceed with the Pinal County Land Release Program.

Additional discussion ensued relative to the selection criteria for a real estate broker.

2. Hear a presentation, discuss and provide direction on City regulations for payday lenders and other related entities.

Zoning/Civil Hearing Administrator Gordon Sheffield displayed a PowerPoint presentation and provided an extensive overview of this agenda item. (The PowerPoint presentation is available for review in the City Clerk's Office.) He reported that per Council direction, staff was asked to review the Zoning Ordinance relative to the location of payday lenders and similar fee-based lending businesses and benchmark other communities, such as Tempe and Peoria, that have recently adopted ordinances in this regard. Mr. Sheffield stated that staff researched the matter and presented various options to the Planning & Zoning Board (P&Z) and the Downtown Development Committee (DDC) for their review and recommendations.

Mr. Sheffield commented that at separate public meetings held on May 18, 2006, the P&Z and the DDC arrived at the following recommendations regarding the issue of payday lender businesses:

P&Z:

- Its recommendation to restrict the number of new payday and auto title lenders (also known as Non-chartered Financial Institutions) in Mesa is based on a "reasonable allowance" of the land use.
- The intent is to avoid having too many payday lenders in one area.
- Minimum base zoning districts include C-1, C-2, C-3, PEP, M-1 and M-2.

DDC:

- DDC's recommendation is more restrictive than the P&Z's and is based on concerns regarding "predatory lending practices."
- The Committee expressed concern that payday lenders are indicators of a neighborhood in decline.
- The intent is to restrict access to residential areas.
- Minimum base zoning districts including C-2, C-3, PEP, M-1 and M-2. C-1 is not eligible.
- Included a second separation requirement (in addition to 1200 feet distance separation between like uses) of 500 feet between the Non-chartered Financial Institutions and a residential zoning district.

Mr. Sheffield indicated that the common elements of both the P&Z and the DDC's recommendations would create a new definition for "Non-chartered Financial Institutions;" require a 1200-foot separation between like uses and from K-12 schools, colleges and universities; require approval of a Council Use Permit (CUP); and require upgrades to the site (i.e., replace dead landscaping, replace non-conforming signs).

Discussion ensued relative to the fact that the State Legislature passed a law in 2000 allowing payday lender businesses to operate in the State; that the businesses loan money to individuals on a fee-based, as opposed to an interest-based, system; that it has been a rapidly growing industry, with 54 locations in Mesa in 2004 and 111 at the present time (approximately 67 sites located west of Gilbert Road); a comparison of requirement alternatives with regard to payday lender businesses in Mesa and adjacent communities; and the fact that payday lender facilities must comply with all current City development requirements just like other businesses.

Mr. Sheffield commented that staff is seeking Council direction regarding which of the two ordinance alternatives the Council would prefer to introduce. He added that the Council is not limited to the options recommended by the P&Z or the DDC and could develop its own option for consideration.

An extensive discussion ensued among the Council regarding this agenda item. The following includes, but is not limited to, various input from each of the Councilmembers:

Councilmember Rawles:

- Acknowledged that the State Legislature did not make a wise public policy decision regarding the payday lender businesses, but noted from the City's perspective, it becomes an issue of the City's role as a land use process.
- There is no rational basis for the 1200-foot spacing requirement between a payday lender business and schools.
- There is no empirical evidence that the businesses decrease property values.
- In his opinion, the reasons these types of businesses "create consternation" is because the individuals who use them (i.e., the poor and those least capable of affording it) tend to be Hispanic, and that more affluent residents "do not want those individuals in their neighborhoods."
- It is not an appropriate result or intent for government regulation of such businesses.
- The ordinances should be tabled.

Vice Mayor Walters:

- Has consistently supported Council Use Permits for certain uses (i.e., pawnshops).
- Does not believe that payday lenders cause crime, but there is a “perception,” based on the clustering of such businesses, that they cause “a downward spiral” and “good uses” leave the area.
- Is uncomfortable with the DDC’s recommendation because it makes the City “a de facto regulating body.”
- Urged City staff to work with the State Legislature regarding this issue.
- Believes that zoning and creating an environment that is good for businesses and neighborhoods is the role of the City.
- Supports the introduction of an ordinance similar to the P&Z’s recommendation, except she would eliminate the C-1 zoning district and the 1200-foot separation requirement between the businesses and K-12 schools.

Councilmember Somers:

- The market dictates the location of payday lender businesses and that is the reason there is only a handful in District 5 and a proliferation west of Gilbert Road.
- It is essential to move beyond how the City can eliminate the number of payday lender businesses and to partner with the private sector and non-profit agencies to educate the working poor regarding how to effectively handle their finances so they do not have to use these businesses.
- Requested that staff research how Mesa’s payday lender fees compare to similar businesses in other communities.
- Supports the creation of an ordinance that would eliminate the requirement for a 1200-foot separation between businesses and K-12 schools; require the 1200-foot distance separation between businesses and colleges and universities; include the 500-foot separation requirement between NFIs and residential areas; and eliminate the C-1 zoning district.
- Stated that the State Legislature needs to address the fees that are charged by the payday lender industry.
- The “density” of payday lender businesses restricts the ability of traditional financial institutions moving into neighborhoods.

Councilmember Griswold:

- Leaning toward a Council Use Permit, but with very broad stipulations.

Councilmember Jones:

- Concurred with his fellow Councilmembers that the State Legislature should readdress this issue.
- Expressed concern regarding the proliferation of payday lender businesses, especially in his Council district.
- Supports regulating the “spacing” of the payday lenders and preventing the saturation of such businesses in the community.
- Is opposed to the City regulating payday lenders via a Council Use Permit process.

Councilmember Whalen:

- There is a market for payday lender businesses that is used by those individuals who are unable to obtain a loan at a bank.
- Opposes the City regulating “what people have to do to survive.”
- There are other businesses in the community he would rather see the City regulate instead of payday lenders.
- Mesa is becoming a culturally diverse community and it is important to accept these changes as “a fact of life.”

Vice Mayor Walters commented that many of the surrounding communities have instituted distance separation requirements for payday lender businesses and noted that because Mesa has not, it has become “the city of choice” as to where these businesses locate.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that staff be directed to introduce an ordinance (in reference to payday lenders and Non-chartered Financial Institutions) that would require approval of a Council Use Permit and also require a 1200-foot distance separation from business to business.

An extensive discussion ensued relative to the fact that approval/disapproval of a Council Use Permit is an administrative act; that the Council could determine that a business is not compatible with surrounding uses or consistent with the General Plan and not approve a Council Use Permit; that the 1200-foot separation requirement, as defined in the ordinance, states “shall be measured in a straight line from the outside building wall of the proposed use to the nearest property line of the land parcel on which the separated use is located, without regard to any intervening uses, buildings or land parcels”; that the ordinance gives the Council the discretion to waive the 1200-foot measurement if it finds there are significant intervening physical features between a proposed and an existing like use or school; that Councilmember Rawles directed staff that the 1200-foot separation requirement equate to “street frontage” as opposed to “as the crow flies”; and that in view of the various changes discussed by the Council this morning, it would be appropriate for staff to bring back this matter to the P&Z and the DDC for further discussion and consideration.

Vice Mayor Walters amended her motion to reflect that staff be directed to introduce an ordinance (with regard to payday lenders and Non-chartered Financial Institutions) that would require a 1200-foot distance separation from business to business, which would be handled by staff on an administrative level; that the distance separation would be measured by street frontage (as opposed to a straight line); and that the ordinance would be brought back to the Council for further discussion and consideration.

Additional discussion ensued relative to the fact that the payday lender businesses would be located within a zoning district that allows commercial businesses; and the fact that existing stores within the adopted spacing requirement from a similar use would be considered to have a “grandfathered” status.

Councilmember Whalen seconded the motion.

Further discussion ensued relative to the difficulty of measuring the 1200-foot distance separation by street as opposed to a straight line.

Vice Mayor Walters restated the motion and moved that staff be directed to introduce an ordinance (in reference to payday lenders and Non-chartered Financial Institutions), after first taking it back through the Planning and Zoning Board and the Downtown Development Committee, that would require a 1200-foot distance separation between like uses, which would be handled by staff on an administrative level, and that the ordinance would come back to the Council for review prior to being placed on a Regular Council meeting agenda for introduction.

Councilmember Whalen seconded the motion.

Councilmember Rawles expressed opposition to the matter going back to the P&Z and the DDC and noted that the citizen committees have already given the Council their views on the matter.

Mr. Sheffield stated that it is mandatory for the committees to provide advice on an ordinance that the Council intends to adopt.

Vice Mayor Walters requested that Ms. Spinner research the legal aspects of Councilmember Rawles' inquiry.

Vice Mayor Walters revised her motion and moved that staff not take the matter back to the Planning and Zoning Board and the Downtown Development Committee for further consideration. She stated that if it is determined that staff is legally obligated to present the proposed ordinance to the citizen committees, they will do so; otherwise, the item would come back to the Council.

Councilmember Whalen seconded the motion.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present.

3. Appointments to boards and committees.

Vice Mayor Walters advised that Mayor Hawker has recommended the following appointments to Boards and Committees:

HUMAN SERVICES ADVISORY BOARD

Rhonda Oliver – Term Expires June 30, 2007

MUSEUM AND CULTURAL ADVISORY BOARD

Hector Benitez – Term Expires June 30, 2007

Amanda Buscas – Term Expires June 30, 2007

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

Vice Mayor Walters declared the motion carried unanimously by those present.

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

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

5. Scheduling of meetings and general information.

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

Thursday, August 24, 2006, 7:30 a.m. – Study Session – Cancelled

Friday, August 25, 2006, 1:00 p.m. – General Development Committee Meeting

Monday, August 28, 2006, TBA – Study Session

Monday, August 28, 2006, 5:45 p.m. – Regular Council Meeting

6. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

7. Items from citizens present.

Charles Gray, 2124 East 3rd Drive, a member of ACORN, invited the Council to attend a meeting regarding the formation of a neighborhood speed hump program. He advised that the meeting is scheduled to be held on August 22, 2006 at 7:00 p.m. at the East Valley Institute of Technology (EVIT).

Alicia Meza, 2329 East 3rd Drive, through the assistance of an interpreter, urged the Council to develop a speed hump program to ensure the safety of Mesa residents.

8. Adjournment.

Without objection, the Study Session adjourned at 9:25 a.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 Study Session of the City Council of Mesa, Arizona, held on the 17th day of August 2006. 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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