

COUNCIL MINUTES

February 22, 2001

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 22, 2001 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Jim Davidson
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson

1. Discuss and consider the City of Mesa's proposal submission for the 2004 Olympic swim trials.

Parks, Recreation and Cultural Director Joe Holmwood, Parks and Recreation Administrator Terri Palmberg and Robert Brinton, Executive Director of the Mesa Convention and Visitors Bureau (MCVB), addressed the Council relative to this agenda item. Mr. Holmwood explained that staff is seeking Council approval for the City of Mesa, in conjunction with the MCVB, the Maricopa County Sports Commission and Arizona Swimming, Inc., to submit a proposal to host the 2004 Olympic Swimming Trials. Mr. Holmwood commented that the event, which will be held July 4-14, 2004 will bring Olympic competitors from across the country to the Mesa Aquatic Center. Mr. Holmwood advised that based on information currently available to staff, the financial impact to the City will be approximately \$100,000 of direct and indirect costs. Mr. Holmwood noted that City officials from Indianapolis, which most recently hosted the 2000 Olympic Swim Trials, estimated that the economic impact to their city was approximately \$6.7 million.

In response to questions from Mayor Hawker, Mr. Brinton explained that as the Host City, Mesa's motels and hotels could accommodate approximately 17,000 to 20,000 visitors. Mr. Brinton added that additional expenses, such as car rentals and further motel/hotel accommodations, will be shared Valley wide.

Discussion ensued relative to the fact that City staff from the Aquatic Center, Special Events, Security and Police will be utilized during the swim trials; the fact that a tentative budget has been compiled for the proposal submission which will be fine-tuned prior to the announcement date slated for early September; the fact that the Host City will assume responsibility for overseeing and managing venue preparation, management and operations, ticket promotion and sales and other revenue generation,

volunteer recruitment, media operations and hospitality, event management and operations, and event marketing and promotions.

Mr. Holmwood informed the Council that in order to be considered an eligible contender for the event, a proposal must be submitted that contains a variety of information regarding Mesa and added that a tentative budget must also be prepared.

Ms. Palmberg spoke regarding the City's proposed revenue/expense projections.

In response to a question from Vice Mayor Davidson regarding Mesa's potential participation in the Goodwill Games in 2005, Mr. Holmwood clarified that the Maricopa County Sports Commission is endeavoring to garner specific information relative to the direct costs to multiple Valley cities which would participate in the event. Mr. Holmwood added that staff will update the Council upon receipt of such information.

In response to a question from Councilmember Walters, Mr. Brinton advised that the Olympic Swim Trials will increase the MCVB's revenues if Mesa can fill approximately 17,000 hotel rooms during the summer months when Mesa's vacancy rates are typically high. Mr. Brinton stressed, however, that the MCVB has made the commitment to contribute substantial funding toward this event not only to showcase the Mesa Aquatic Center but also to promote tourism for the entire City.

Councilmember Walters stressed the fact that if Mesa is selected as the Host City for the Olympic Swim Trials, such an event will increase the City's sales tax revenue and also generate additional sales opportunities for Mesa's businesses.

In response to a question from Councilmember Pomeroy relative to the MCVB's role in the proposal submission, Mr. Brinton clarified that the Board of Directors has committed to pay the bid preparation costs, the non-refundable \$1,000 bid application fee, will contribute approximately \$150,000 for the USA Swimming Rights fee and will also provide funding for the travel and housing of the Olympic Committee staff members.

Councilmember Pomeroy stated that although the Mesa Aquatic Center will be competing with cities that have outdoor venues, the Center is comparable to the Indianapolis facility. Councilmember Pomeroy commented that one of the goals of the City is to make the Mesa Aquatic Center a nationally recognized venue for swimming and diving competitions.

It was moved by Councilmember Pomeroy, seconded by Councilmember Walters, that staff be directed to proceed with the City of Mesa's proposal submission for the 2004 Olympic Swim Trials.

In response to a question from Councilmember Whalen, Mr. Holmwood advised that in an effort to accommodate sufficient event parking, staff will address various options including off-site parking, shuttle service and will also examine the development of a revenue stream as a result of the parking sites.

Mayor Hawker voiced his support for the motion and stated the opinion that the Olympic Swim Trials is an excellent opportunity to showcase the Mesa Aquatic Center and to promote Mesa.

In response to a question from Councilmember Jaffa, Mr. Holmwood clarified that the proposal submission deadline is February 28, 2001 and said that the selected City will be notified in early September.

Councilmember Jaffa spoke in support of the motion and stated the opinion that as the City's downtown area transitions into a commercial center, staff and Council should give consideration to the implementation of parking revenues. Councilmember Jaffa also encouraged staff to accelerate the completion date of the Mesa Arts Center to coincide with the Olympic Swim Trials.

Carried unanimously.

2. Hear a legislative update.

Assistant to the City Manager Jeff Martin and Government Liaison Kevin Adam provided the Council with an update concerning several issues being considered by the Legislature and the potential impact of each on the City (See Attachment).

Mr. Martin discussed the Use of HURF Revenue to Fund Additional DPS Officers, Senate Bill 1243, and said that the Bill has been adopted into law. Mr. Martin commented that the additional allocations will divert \$6.2 million in FY 2001/2002 and \$8.9 million in FY 2002/2003 from funds earmarked for cities and counties for road construction. Mr. Martin explained that there is a provision in the law that allows the State to use HURF monies for the highway patrol, but cities and counties are prohibited from using such funds for public safety. Mr. Martin added that HURF funds may be utilized for any purpose within the rights-of-way.

Mr. Adam addressed the Council on the Group Homes Oversight, Senate Bill 1235, and informed the Council that the Bill was introduced by Senator David Petersen on behalf of the City. Mr. Adam advised that several provisions of the Bill were in conflict in reference to Federal fair housing laws and added that an amendment to the Bill will be offered to require State agencies to provide cities with basic information regarding each group home located within their jurisdiction on a quarterly basis. Mr. Adam said that the Bill passed the Senate.

Mr. Adam also discussed the Telecommunications Bill, Senate Bill 1561, which would restrict the City's ability to recover costs associated with street cuts which damage and degrade the life of roads. Mr. Adam stated that the Bill seeks to replace current law which allows the City to recover "reasonable costs" with the recovery of "actual costs." Mr. Adam explained that the Bill would allow the telecommunication companies to legally challenge any cost recovery imposed upon them by the City. Councilmember Jaffa urged staff to provide the Council with further input relative to easement revenues.

Mr. Adam offered a brief overview of the State Aviation Fund, Senate Bill 1251, House Bill 2369 and House Bill 2374, and noted that such Bills would shift varying levels of the State flight property tax revenue back into the State Aviation Fund. Mr. Adam commented that the loss of these funds impacts both Williams Gateway and Falcon Field Airports.

Mr. Martin discussed Firearms Regulatory Preemption, House Bill 2347 and Senate Bill 1268, and advised that neither Bill has been considered in committees.

Mr. Martin updated the Council on Earlier Availability of Election Publicity Pamphlets, House Bill 2419, and said that the Bill was introduced at the City's request to provide more time for cities to distribute

publicity pamphlets and would enable the City to distribute the pamphlets prior to early voting. Mr. Martin commented that the Bill passed the House and has been assigned to the Senate Government Committee.

Mr. Martin reported on the Natural Gas Service Fee Preemption Repeal, Senate Bill 1430, and informed the Council that the Bill would repeal a preemption of public power entities from charging a service fee for natural gas that is provided for refueling alternative fuel vehicles. Mr. Martin said that it is anticipated that the Bill will pass the Senate.

Mr. Adam discussed Williams Gateway Airport Development, House Bill 2604, and said that the introduction of the Bill will provide greater protection against residential encroachment of Luke Air Force Base and also a \$4.8 million appropriation to Williams Gateway Airport for capital improvements to enhance air cargo operations. Mr. Adam stated that the Bill includes appropriations of \$350,000 annually to continue the Williams Gateway Airport's marketing program.

Mr. Adam reported on Traffic Safety, House Bill 2278, and advised that the Bill was compiled by a broad coalition of law enforcement agencies and traffic safety interest groups. Mr. Adam explained that the most controversial issue of the Bill is to cite the registered owner of a vehicle if the vehicle has been recorded in a traffic violation by a red light camera or photo radar. Mr. Adam also discussed that the Bill has been held in Committee until the issue of appropriate penalties associated with registered owner citations is closer to consensus among the various stakeholders.

Mr. Adam discussed County Roadway Abandonment, House Bill 2358, and informed the Council that the Bill would authorize Maricopa County to abandon roads within or adjacent to a municipality without any guarantees that the road would be brought up to City standards prior to abandonment. Mr. Adam indicated that the sponsor has agreed to hold the Bill until municipalities have the opportunity to implement appropriate amendments. Mayor Hawker urged Mr. Martin and Mr. Adam to closely follow the Bill's progress.

Mr. Martin provided a brief overview of State Transportation Funding Reductions, consisting of recommendations to the State budget, including the rescission of a commitment by the Legislature to provide \$40 million in the General Fund as a means by which to capitalize the State Infrastructure Bank. Mr. Martin explained that alternatively, the State would loan \$40 million to the State Infrastructure Bank, which would be repaid to the State with costs of approximately \$18 million in interest. Mr. Martin added that a second reduction is a footnote in the State budget to reduce State Highway Fund revenues by \$25 million to be allocated for a reduction to the State Vehicle License Tax (VLT). Mr. Martin noted that although the State Legislature has made a commitment that such a reduction would not impact the State Highway Fund, he expressed reservations whether or not the commitment will be kept. Mr. Martin voiced the opinion that through the utilization of little-known budget footnotes, the State Legislature has implemented policy changes which should receive greater discussion and public input.

Environmental Programs Director Christine Zielonka provided the Council with a brief update regarding Governor Jane D. Hull's Brown Cloud Summit.

Mr. Martin provided additional legislative updates including: ASU East Appropriations; Retiree Benefits; Enhanced 911 Service; Transportation Projects, Utility Relocations; Community Facilities District; Sewage Connection Requirements; Eminent Domain, and NPDES Primacy.

Mayor Hawker thanked staff for their presentation.

3. Hear a presentation on Municipal Budgeting 101.

Deputy City Manager Debbi Dollar advised that in conjunction with the new biennial budget cycle and at the request of the Council, staff has prepared an educational presentation regarding principles of municipal budgeting, including various components of the budget process, the manner in which the City budget is compiled and a review of legal requirements.

Finance Director Jamie Warner addressed the Council relative to this agenda item. Mr. Warner commented that in November of each year, the Budget and Research Office establishes a forecast of estimated City revenues and expenditures for the current fiscal year as well as the subsequent two fiscal years. Mr. Warner stated that the first category of City revenues, which are not restricted and can be used for general governmental purposes, include the General Fund and the Enterprise Fund. Mr. Warner advised that restricted revenues can only be used for purposes allowed by law and include the Quality of Life Half Cent Sales Tax, Local Transportation Assistance Fund, Federal Housing Funds, Impact Fees, Public Art, Cemetery Fund and the Highway User Revenue Funds (HURF). Mr. Warner added that the sale of bonds is authorized by the voters for the construction or purchase of a physical asset for the City.

Mr. Warner spoke regarding the dual budgeting system and the program/function budget.

Mr. Warner explained that the General Fund revenues support a majority of City programs such as Legislative, Executive, Williams Gateway; the Enterprise Fund supports programs such as Utilities, the Airport and Solid Waste Management; the Internal Service Fund supports the Print Shop and Fleet Services, and the Special Revenue Funds support Mass Transit, Housing and Transportation.

Mr. Warner provided an analysis of a Responsibility Center (RC) budget and compared the Responsibility Center Budget to the Program/Function Budget.

Mr. Warner commented that the citizens of Mesa passed a home rule expenditure adjustment establishing the City budget as the expenditure limit starting in FY 2000/2001. Mr. Warner noted that Mesa's citizens must reaffirm such a limitation every four years or the City will revert back to the State imposed expenditure limitation. Mr. Warner added that State law requires that the City of Mesa adopt a balanced budget to ensure that all appropriations have offsetting revenue.

Mr. Warner outlined the sequential steps in the City's budget process including: forecasting revenue and expenditures; the Council establishing direction for the budget; City departments establishing baseline guidelines; the RCs identifying impacts on the budget and the Departments submitting baseline budget and Budget Adjustment Requests (BAR); the City Manager reviewing department budgets; the City Manager submitting a preliminary budget to the Council; the Council reviewing the budget; the Council establishing a tentative budget; the Council receiving public input, and the Council adopting the final budget.

Mayor Hawker thanked staff for the presentation.

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

Vice Mayor Davidson reported on his attendance at a public meeting held at Red Mountain Ranch regarding the proposed commercial redevelopment at the corner of Recker Road and Thomas Road. Vice Mayor Davidson explained that residents of the surrounding neighborhood voiced support for the addition of offices, restaurants and light industrial within the area. Vice Mayor Davidson also requested input from staff regarding the fact that the developer had indicated that City staff was requiring a car wash or gas station to be included in the redevelopment project. City Manager Mike Hutchinson said he would look into the matter and report his findings to Vice Mayor Davidson.

5. Scheduling of meetings and general information.

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

Wednesday, February 28, 2001, 3:00 p.m. – Study Session

Thursday, March 1, 2001 – Study Session Cancelled

Monday, March 5, 2001, 3:00 p.m. – Transportation Committee Meeting

Monday, March 5, 2001, TBA – Study Session

Monday, March 5, 2001, 5:45 p.m. – Regular Council Meeting

Tuesday, March 6, 2001, 7:30 a.m. – Joint Breakfast Meeting with the Board of Directors of the Dobson Ranch Homeowners' Association

Thursday, March 8, 2001, 7:30 a.m. – Study Session

Thursday, March 15, 2001, 7:30 a.m. – Study Session

Councilmember Jaffa requested that staff provide the Council with a schedule regarding neighborhood meetings.

Planning Director Frank Mizner clarified that the Red Mountain Ranch meeting was organized by the developer and not by the City. Mr. Mizner also assured the Council that the City does not support the development of a car wash, gas station, fast food restaurant, convenience store or a daycare center at the Recker/Thomas Roads site.

Councilmember Kavanaugh advised that this evening, February 22, 2001, City staff and ADOT staff will make a presentation to the Dobson Ranch Homeowners' Association regarding issues associated with the widening of the U.S. 60.

6. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

7. Adjournment.

Without objection, the Study Session adjourned at 9:30 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 22nd day of February, 2001. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2001

BARBARA JONES, CITY CLERK

Pag
Attachment

February 22, 2001

TO: MAYOR AND COUNCIL
THROUGH: MIKE HUTCHINSON
FROM: KEVIN ADAM
JEFF MARTIN
SUBJECT: Update for 2001 Legislative Session.

OVERVIEW

The purpose of this report is to provide the Mayor and Council with an update on this year's legislative session.

ITEMS PREVIOUSLY DISCUSSED

Use of HURF Revenue to Fund Additional DPS Officers (SB1243)

The Governor signed SB1243 into law, which increases the level of HURF revenue allocated to DPS for the purpose of funding additional personnel and patrol cars. The law provides DPS with an additional \$26 million over the next two years. It is estimated that the additional allocations will divert \$6.2 million in FY 2001-2002 and \$8.9 million in FY 2002-2003 from funds earmarked for cities and counties for road construction.

Group Homes Oversight (SB1235)

Senator Petersen introduced SB1235, which provides cities with additional tools to help address some of the problems that neighbors have experienced with group home residents. The bill passed the Senate Family Services Committee and is awaiting action on the Floor of the Senate. The Attorney General's Office and the Senate legal staff reviewed the bill language and determined that some provisions of the bill may conflict with federal fair housing laws. An amendment to the bill will be offered to require state agencies to provide cities with basic information regarding each group home located within their jurisdiction on a quarterly basis.

Telecommunications (SB1561)

This bill was introduced at the request of telecom industry lobbyists to limit the ability of cities to recover costs for street cuts, which damage and degrade the life of roads. As currently authorized, cities can recover reasonable costs. The bill seeks to change "reasonable" to "actual" costs and would impose "standards" which cities would have to meet to prove any damages or costs. As written, the bill would make it easier for the industry to legally challenge any costs assessed by cities for damages done to local streets. In addition, many costs, such as fees assessed for street degradation, are impossible to precisely quantify and therefore it is difficult to determine "actual" costs. The bill has been assigned to the Senate Finance Committee where it has yet to be scheduled. Cities attempted to work with industry on a nonlegislative solution to the issue. This bill further limits compensation for the industry's use of the public rights-of-way as well as damages to local streets. Mesa and other cities are opposed to this bill.

State Aviation Fund (SB125, HB2369, HB2374)

Several bills have been introduced that would shift varying levels of the state flight property tax revenue back into the state aviation fund. The City of Mesa supports restoring these funds into the State Aviation Fund and stopping the diversion of these monies into the state general fund. This diversion started pursuant to legislation passed in 1997 diverting 50% of the revenue to the state general fund. The shift has resulted in an approximate loss of \$7.5 million annually to the state aviation fund. The loss of these funds impacts the development of both Williams Gateway and Falcon Field Airports.

Firearms Regulatory Preemption (HB 2347, SB1268)

Representative Karen Johnson has introduced legislation that would preempt local governments from passing any ordinance, rule or tax related to the manufacture, transportation, possession, carrying, sale or use of firearms or ammunition. Neither bill has been considered in committee.

Earlier Availability of Election Publicity Pamphlets (HB2419)

Representative Jarrett introduced this bill per the City's request to provide more time for cities to distribute publicity pamphlets. Many local election departments have been unable to distribute publicity pamphlets prior to the start of early voting. Since early voting has become quite popular, earlier distribution of publicity pamphlets is important. The bill changes the deadline for arguments for initiatives and referendum from 60 days to 90 days prior to the election to provide additional time to distribute publicity pamphlets prior to early voting. The bill has passed the House.

Natural Gas Service Fee Preemption Repeal (SB1430)

Senator Blanchard has sponsored legislation that would repeal a preemption of public power entities from charging a service fee for natural gas provided for the refueling of alternative fuel vehicles. The City should have the authority to establish the City's rate structure. In addition to overriding local control, the law also only applies to the City of Mesa Gas Utility. Private utility companies continue to charge such a fee. The bill was heard in the Senate Natural Resources, Agriculture, and Environment Committee on February 15th and is scheduled for a vote by the Committee today. Senator's Rusty Bowers and Dave Petersen have also signed on as cosponsors of the bill.

Williams Gateway Airport Development (HB2604)

In cooperation with Glendale, HB2604 was introduced to provide greater protection against residential encroachment of Luke Air Force Base. The bill also provides a \$4.8 million total appropriation over two years to Williams Gateway Airport for capital improvements to enhance airport cargo operations as well as an equivalent appropriation to protect Luke. The development of an air cargo apron with an associated taxiway and access road is being sought at a cost of \$15 million. Federal assistance is also being sought for the project and \$6.1 million in federal assistance has been tentatively approved. Appropriations to continue the annual \$350,000 for the airport's marketing program are currently in both the Governor's and Legislature's budget proposals.

Traffic Safety (HB 2278)

Representative Voss has introduced HB2278, which would enhance public safety and traffic law enforcement. The bill increases the authorized level of civil penalties for traffic violations resulting in serious injury or death. The bill also provides law enforcement officials with an additional 30 days to commence a civil traffic violation case. Also, the bill would allow traffic citations to be served through the mail for traffic violations. The bill also makes registered owners of vehicles responsible for traffic violations if the vehicle is recorded by a traffic monitoring system violating traffic law. The bill has been held in Committee until the issue of appropriate penalties associated with registered owner citations is closer to consensus among the various stakeholders.

County Roadway Abandonment (HB 2358)

Legislation has been introduced that would allow counties to abandon roads within or adjacent to cities. The affected city would have no guarantee that the abandoned road would meet its street standards. The impact to Mesa could be substantial since the City has annexed property on both sides of county roads, without taking in the roadway per Maricopa County policy. The bill sponsor, Representative Flake has agreed to hold it until it has been amended to meet city concerns. The City continues to oppose the bill and has suggested that it be amended to reallocate a portion of the counties' HURF revenue to cities to more accurately reflect the changing responsibilities of counties and cities.

NEW ITEMS

State Transportation Funding Reductions

Several recommendations to the state budget would reduce state funding for transportation. The first budget recommendation would rescind a commitment by the Legislature to provide \$40 million in funding to the State Infrastructure Bank over the next two fiscal years. Instead, the state would loan the money to the infrastructure bank which would incur borrowing costs of about \$18 million. Communities across Arizona were counting on these funds to accelerate state highway projects.

In addition, a footnote to the state budget would reduce state highway fund revenues by \$25 million to pay for a reduction to the state Vehicle License Tax (VLT) that was implemented several years ago. This change is significant because the Legislature promised that the VLT cut would not adversely impact highway construction projects. Clearly, this diminishes a previous commitment by the Legislature to provide adequate funding to improve our state transportation system. Such direction runs counter to public opinion polls indicating that transportation is a top priority and the findings of the Governor's Vision 21 Transportation Task Force, which has determined that there is a multi-Billion funding shortage for transportation over the next twenty years. There is also a concern that policy changes are being slipped into the state budget as was done for sound wall funding rather than deliberated more publicly through the introduction of a bill. The sound wall footnote has been removed, but there is a concern that budget footnotes should not be used for major state policy changes. Staff is also very concerned with this apparent raid on state highway funding.

It is recommended that the City oppose efforts to rescind legislative commitments on transportation funding.

Air Quality, Brown Cloud Study (HB2538) Legislation has been introduced to provide measures to reduce pollutants associated with the region's brown cloud problem. Major provisions include additional regulations over the use of diesel-fueled vehicles and an electric powered generator requirement at residential construction sites in the region. The City is considering requesting an amendment to the bill that would add newly developed oxidation catalysts and particulate filters for use in the state's alternative fuel government fleet conversion program.

It is recommended that the City support this bill to improve air quality and pursue an amendment to enhance the government fleet conversion program.

ASU East Appropriations (SB1432 HB2554)

Legislation has been introduced that would appropriate \$6.2 million in FY 2001-2002 and \$3.1 million in FY 2002-2003 for new campus development at ASU East. Since the campus is an integral part of the redevelopment efforts associated with Williams Gateway Airport, the City supports the appropriation.

It is recommended that the City support this bill, to assist development of ASU East.

Retiree Benefits SB1100, HB2169)

Legislation has been introduced that would establish a voluntary supplemental defined contribution program for members of the Arizona State Retirement System, the Public Safety Personnel Retirement System, and the Elected Official Retirement Program. The defined contribution plan would be qualified under Section 401(a) of the Internal Revenue code as well as tax exempt under Section 501. Employers would be authorized to match contributions for this program, which would be administered by the fund manager of the various state systems. This program would provide another retirement benefit option for elected officials and public employees.

It is recommended that the City support this additional retirement benefit option.

Enhanced 911 Service (HB2625)

The legislation would increase excise taxes on telecommunications services in order to make needed enhancements to 911 services. Of particular interest is implementing available new technology enabling dispatchers to determine the location of cellular phone calls. The current excise tax is insufficient to implement the new technology.

It is recommended that the City support legislation to enhance 911 services.

Transportation Projects, Utility Relocations (SB1273)

The legislation requires utility relocation costs to be paid for with federal funding rather than by the utility companies. Such a shift in costs from the utilities to ADOT and RPTA would dramatically increase project costs for construction of new transportation projects.

It is recommended that the City oppose diverting federal transportation funding from highway and transit projects to pay utilities that do not have a prior right for their relocation costs.

Community Facilities District (SB1355) The legislation expands the counties' authority to use Community Facilities Districts to finance the development of public infrastructure. Existing county authority is limited to the development of school facilities. Providing authority for this development tool would facilitate leapfrog development and urban sprawl in the unincorporated area. The bill would give developers a powerful tool for doing large projects outside of the urban area.

It is recommended that the City oppose this legislation, since passage would promote leapfrog development and urban sprawl.

Sewage Connection Requirements (SB1375)

Senator Rusty Bowers has introduced legislation that would preempt local governments from requiring a property owner to connect to a public sewer system or to charge them a fee for such service if the property owner has an existing alternative sewage system in place. Such a preemption would limit the ability of the City to maximize the use of its sewer system and minimize risk of groundwater contamination from private systems. Senator Bowers is considering amending the bill to limit it to preempt a city from charging sewer fees to property owners outside of city boundaries without the owner's consent. He has been informed that the City is reviewing its current policy regarding property owners outside of the City limits.

It is recommended that the City oppose the bill in favor of a nonlegislative solution.

Eminent Domain (1452)

Legislation has been introduced that would make a number of changes to state condemnation statutes. These changes include: requiring 20 days notice prior to filing a condemnation action; awarding litigation costs to a property owner if the proceeding is dismissed by the acquiring entity; and a requirement for the acquiring entity to make a reasonable offer to purchase property prior to filing a condemnation action. It appears that the bill will be amended to create a study committee to look at this issue over the summer. Some cities have been criticized for filing too many condemnation actions for public works projects.

It is recommended that the City oppose this bill and instead support giving the issue further study.

NPDES Primacy (HB2426)

Provides the Department of Environmental Quality (ADEQ) with authority to assume the primary permitting and enforcement responsibility for the National Pollutant Discharge Elimination System (NPDES) permit program for discharges into surface water. The Arizona Municipal Water Users Association (AMWUA) has expressed numerous concerns with the legislation: Clarification of ADEQ's authority to impose fines and take enforcement action is needed as well as assurances that the costs of the program will not be passed on to the permittees. AMWUA has also suggested that a performance audit process be implemented to evaluate and review ADEQ's performance.

It is recommended that the City oppose ADEQ primacy until its authority, costs, and performance oversight are better clarified in the legislation.