



COUNCIL MINUTES

October 22, 2009

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 October 22, 2009 at 7:34 a.m.

COUNCIL PRESENT

Mayor Scott Smith
Alex Finter
Dina Higgins
Kyle Jones
Dennis Kavanaugh
Dave Richins
Scott Somers

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

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

1. Hear a presentation, discuss and provide direction whether to pursue a program to advertise on bus shelters.

Deputy Transportation Director Mike James reported that today's presentation is an update to the August 27, 2009 Community & Neighborhood Services Committee meeting, at which time the Committee directed that this item be forwarded on to the full Council for their input.

Mr. James displayed a PowerPoint presentation (**See Attachment 1**) and explained that the primary reason staff is investigating opportunities to advertise on bus shelters is to provide additional shelters for its residents at minimal cost. He noted that on a secondary basis, advertising on bus shelters would also provide the City an additional source of revenue.

Zoning/Civil Hearing Administrator Gordon Sheffield stated that in order to implement a program to advertise on bus shelters, it would be necessary to amend the City's sign ordinance. He indicated that in the present sign ordinance, transit shelter signs would be included in a category of signage entitled off-site signage or billboards.

Mr. Sheffield offered an extensive historical/legal overview of billboards in the City of Mesa. His comments included, but were not limited to, the following: that in 1986, the City Council prohibited new billboards in Mesa; that it was the opinion of the Council that billboards caused visual pollution, sign clutter and strongly affected the aesthetics of Mesa; that the billboard industry filed a lawsuit against the City of Mesa and the case (which was joined with a Tucson case that had a similar set of circumstances) was eventually heard by the 9th U.S. Circuit Court of Appeals; that the 9th Circuit Court found that limitations on commercial speech could extend

to off-site signs or billboards and upheld the actions of the City of Mesa; and that subsequent Councils have strongly endorsed the prohibition of offsite signs.

Mr. Sheffield further remarked that in the late 1990s, the City of Los Angeles took action to prohibit billboards in that community and subsequently created special exceptions for other types of signs that may be considered technically off-site signs. He stated that one such type of sign was a transit sign, which could be found in rights-of-way adjacent to transit stops that the City would own, lease out and from which it would gain advertising revenue.

Mr. Sheffield explained that the billboard industry filed a lawsuit against the City of Los Angeles and said that the case was eventually heard by the 9th Circuit Court. He indicated that the Court agreed that an exception for transit signs was reasonable and upheld the actions of the City of Los Angeles. Mr. Sheffield added that as a result of the Court's ruling in that case, staff believes there may be an opportunity to create a similar exception in Mesa's sign ordinance.

Mr. James highlighted various benchmarking findings in Chandler and Phoenix related to the number of transit shelters in those communities and the annual revenues generated by the facilities. (See Page 2 of Attachment 1) He also displayed photographs illustrating examples of different kinds of transit shelters. (See Pages 3 and 4 of Attachment 1)

Mr. James advised that staff considered a potential model for advertising on transit shelters based on what Phoenix has established. He reviewed the various components of the model as follows:

Issue Request for Proposals:

- City identifies locations, restrictions and conditions of shelters and their placement.
- Authorizes an exclusive agreement to install, provide funds for the City contractor to maintain and sell advertising on transit infrastructure.
- Requires the vendor to maintain shelter and install advertising.
- Establishes cleaning and maintenance routine and establishes fines for non-compliance.
- Establishes financial payment schedule.

Mr. James reported that in speaking with staff from the City of Phoenix, they recommended that Mesa include a requirement in its contracts that transit shelter advertising be limited to speech or graphic images that propose a commercial transaction. He also provided a short synopsis of various advertising restrictions that have been utilized by Phoenix. (See Page 6 of Attachment 1) Mr. James added that Mesa would also retain the right to utilize all unsold advertising space at its sole discretion.

Discussion ensued relative to the potential benefits to the City by allowing advertising on transit shelters (See Page 6 of Attachment 1) and Mesa's current transit shelter inventory (See Page 7 of Attachment 1); that if the Council directs staff to proceed with the proposal, staff would draft the sign ordinance, which would be presented to the Planning & Zoning Board (P&Z) for their recommendations; and that the matter would then be brought back to the Council for review and possible ordinance adoption.

Councilmember Kavanaugh thanked staff for their efforts and hard work in this regard and also acknowledged Councilmember Higgins for initially advancing the issue. He indicated that the

content of Phoenix's ordinance has been "vetted thoroughly" by the Court and stated that it was appropriate for staff's proposal to move forward.

Councilmember Richins commented that it is "somewhat hypocritical" to limit signage and billboards as much as Mesa does and then let it be the sole purview of government to advertise on bus shelters. He said that although he supports a new revenue source to build more bus shelters in the community, he is uncomfortable with staff's proposal.

Councilmember Higgins advised that the reason the City is considering this matter is to address concerns she raised over a year ago regarding how Mesa could assist citizens who use public transit and are impacted by a lack of shade and shelter while waiting for buses. She concurred with Councilmember Kavanaugh's comments and expressed support for moving this item forward.

Additional discussion ensued relative to the estimated amount of revenue that Mesa could generate annually by advertising on bus shelters; that the amount would be similar to what is generated by Chandler (\$54,000 to \$84,000); and that it would be necessary for staff to review the terms of the contracts prior to committing the funds to an operational budget.

City Manager Christopher Brady reiterated that the purpose of today's discussion is to seek Council direction whether to amend the sign ordinance in order to permit advertising on transit shelters. He explained that subsequent to P&Z's recommendation, staff would bring back a business plan for the Council's consideration. Mr. Brady added that there are a variety of different models that could be implemented.

Vice Mayor Jones stated that although he struggles with "visual clutter," he understands the importance of the City providing additional bus shelters in the community. He noted that he would be curious to see what the business model would "look like" in order to accomplish that goal.

In response to a question from Vice Mayor Jones, City Attorney Debbie Spinner clarified that Mesa would most likely be able to advertise City events on unsold advertising space. She stated that it might be more challenging to advertise social events that are not City-sponsored and added that the City could not "pick and choose" which events are advertised in the non-commercial arena.

Councilmember Somers suggested that the Council's discussion concerning this issue be continued until a future time and said that it would be helpful to hear P&Z's recommendations. He also commented that it would be important for him to know how the advertising revenue might be used and if the City would realize some type of public benefit beyond generating an estimated \$54,000 to \$84,000 annually.

Councilmember Higgins responded that she would assume any advertising revenue generated by the City would be used to install and maintain bus shelters wherever needed. She stated that Mesa currently has approximately 794 bus stops, but only 219 bus shelters. Councilmember Higgins added that for a city the size of Mesa, at least 50% of the bus stops should have shelters.

Mayor Smith stated that it was the direction of the Council that staff move forward in the process, "come up with a plan" and added that the Council would like to be provided additional options. He stated the opinion that there seems to be "a lot of hassle and cost" regarding the proposal and questioned whether the benefits of generating an estimated \$84,000 in advertising revenue is "worth it."

Mr. Brady clarified that if he understood the Council's direction, staff would move forward with amending the sign ordinance. He added that development of a business plan would depend upon the market.

Mr. Brady further indicated that in other communities in which he has worked, advertising on bus shelters was restricted to certain parts of the community (i.e., commercial areas as opposed to residential neighborhoods). He explained that such a process not only offset the cost of building the shelters, but also provided revenue to maintain the shelters over a period of time.

Mayor Smith stated that it was his perception that the majority of the Council do not have a negative feeling toward advertising as a concept, but do have unanswered questions as to "how that would play out."

Councilmember Richins urged staff to be sensitive with the placement of transit shelters so that they do not block the signage of local businesses.

Mayor Smith thanked staff for the presentation.

2. Hear a presentation, discuss and provide direction on amending the livestock regulations.

Zoning/Civil Hearing Administrator Gordon Sheffield displayed a PowerPoint presentation (**See Attachment 2**) and reported that the Lehi Sub-area Plan, which was adopted by the Council in January 2006, included two goals related to livestock regulations:

1. Decriminalize livestock regulation penalties (completed in June 2008).
2. Amend provisions of the Livestock Ordinance to be similar to the regulations of other successful rural communities.

Mr. Sheffield explained that at the February 26, 2009 Study Session, the Council directed staff to develop a draft Livestock Ordinance; to send a notice of changes to the affected property owners and residents; to note their comments; and to advise the Council of the results. He stated that in August, staff sent draft redline amendments to 160 property owners for their input and feedback.

Mr. Sheffield provided a brief overview of the City's existing livestock regulations (See Page 1 of Attachment 2) and a series of revisions proposed by the Community & Neighborhood Services Committee at their January 29, 2009 meeting:

- A. Allowances for student projects and juvenile animals.
- B. Update and broaden animals listed.
- C. Lower lot size threshold (1 acre to 35,000 square feet).
- D. Introduce point system for large and small animals, based on livestock ratio remaining at 2 head/acre.

Mr. Sheffield advised that staff initially proposed that the minimum lot size to keep chickens and barnyard fowl would increase from 0 to 35,000 square feet. He explained that as a result of significant opposition from the property owners and residents, staff has since withdrawn that requirement. Mr. Sheffield also noted that in reviewing the draft redline amendments, the property owners and residents did not oppose reducing the minimum lot size to 35,000 square feet and appeared to support a point system for large and small animals (based on the livestock ratio remaining at 2 head/acre).

Mr. Sheffield informed the Council that staff also received feedback from several Lehi residents who wanted livestock ratios greater than 2 head/acre and inquired how staff could increase that ratio in the Lehi Sub-area. He said that he would address this item later in his presentation.

Mr. Sheffield offered a short synopsis of the following revisions included in the draft ordinance that were sent to the residents/property owners:

- Updated animal list.
- Allowances for infant/project animals.
- Large animal ratio remains at 2 head/acre.
- No changes to barnyard fowl ratio.
- Minimum lot area reduced to 35,000 square feet.
- New limits on pigeons and chinchillas
- Point system allows additional smaller animals on a proportionate basis.

Mr. Sheffield reported that in response to the Lehi residents' interest in having livestock ratios greater than 2 head/acre, staff proposes the creation of a Lehi Livestock Sub-area. He explained that the standard would apply to the Lehi area (defined as north of McKellips Road between Mesa Drive and Val Vista Drive) and any lots subsequently annexed in the area. Mr. Sheffield indicated that staff considered increasing the ratio to 4 head/acre and said that certain Lehi residents have suggested 8 head/acre. He noted that the City would maintain the 2 head/acre ratio for the remainder of Mesa and added that residents would have the availability of a Special Use Permit option if they wanted to increase the ratio.

Discussion ensued relative to the fact that as a result of conducting additional research, it was the opinion of staff that the proposed Lehi Livestock Sub-area would not have to be included in the Zoning Code, but could be part of the Animal Regulations.

Mr. Sheffield highlighted two Lehi alternatives as follows:

Lehi Alternative A

- Revisions A through C, point system.
- Higher ratio for Lehi Sub-Area – 8 head/acre.

Lehi Alternative B (**Not recommended**)

- Revisions A through C, point system.
- Higher "Default Ratio" set at 2 head for first acre and 4 head/acre for additional acreage.
- Higher licensed ratio set at 8 head/acre.

Mr. Sheffield further reported that Lehi residents inquired regarding the possibility of implementing a license system, but stated that staff was not recommending such an option because it would create bureaucracy. He explained that from staff's perspective, the residents would still have a Special Use Permit option if they wanted to increase the livestock ratio.

Mr. Sheffield concluded his presentation by requesting direction from the Council regarding whether they would prefer to establish a separate livestock ratio for Lehi, and if so, what the ratio should be (i.e., 4 head/acre or 8 head/acre). He also displayed a map illustrating those residential parcels in the City of Mesa that are 35,000 square feet or greater. **(See Attachment 3)**

In response to a question from Councilmember Higgins, Mr. Sheffield clarified that the proposed revisions to the Livestock Ordinance (A through C and the point system) would apply Citywide, but noted that the Lehi alternatives would apply only to that area of the community.

Mayor Smith commented that the Livestock Ordinance applies Citywide and noted that there are "some pockets" in northeast Mesa and Councilmember Finter's district (District 2), where there is livestock activity. He stated that Lehi is unique because of its rural lifestyle.

Councilmember Finter thanked staff for their efforts and hard work regarding this issue. He expressed support for the creation of a Lehi Livestock Sub-area option, but also said he would like to see a similar option in his district if there is an opportunity for residents to have additional livestock. Councilmember Finter added that he would hope staff would not abandon the option of residents, on an isolated basis, having the ability to obtain a livestock license in order to allow an additional animal on their property.

Further discussion ensued relative to the difference in the regulatory process between obtaining a livestock license (handled administratively by staff) and a Special Use Permit (requiring a public hearing); and that the objective standards for obtaining a license would be similar to those for sanitary management of livestock.

Councilmember Finter commented that he has lived a rural lifestyle for decades and urged staff to consider every option to maintain the history of Mesa's rural community. He stated that the neighborhoods in his district and Lehi are well-established and have the infrastructure to maintain livestock.

Councilmember Richins, who represents the Lehi area, acknowledged that this is a complicated issue and one that he inherited from former Vice Mayor Claudia Walters. He stated that he met with Lehi residents and other Mesa citizens to seek "a balance" with regard to their desires and what staff is comfortable implementing. He distributed a document he drafted entitled "Livestock and Large Animal Regulations" and reviewed the various proposals. **(See Attachment 4)**

Mr. Sheffield clarified that with reference to No. 6 on Attachment 4, the correct amount of chicken/fowl allowed is 20 per acre.

Councilmember Finter stated that Councilmember Richins' suggestions are "a great compromise" and would serve the City well.

Vice Mayor Jones stated that he would prefer to see an ordinance that applies Citywide as opposed to a specific sub-area of the community. He stated that as a life-long resident of Mesa, he is aware of the unique, rural character of Lehi, but said that he is uncomfortable when the City attempts to designate a sub-area which is exclusive to the rest of the community as to what is permitted. Vice Mayor Jones expressed support for the Lehi livestock ratios proposed by Councilmember Richins, but said that a livestock license, at a minimal cost, should be a Citywide option (i.e., for those areas with the appropriate acreage and a history of maintaining livestock) and not just in Lehi.

Councilmember Kavanaugh stated that when this item was presented to the Community & Neighborhood Services Committee, he opposed the proposal. He noted that he appreciates the additional work staff has done on this issue and said he is now persuaded by Councilmember Richins' compromise, which acknowledges the unique characteristics of the Lehi area and also provides reasonable regulations in the remainder of the City. Councilmember Kavanaugh expressed support for moving ahead with Councilmember Richins' proposal.

Councilmember Somers voiced support for Councilmember Richins' proposal. He noted that the City of Mesa is comprised of many different residential areas (i.e., suburban, rural, Desert Uplands) and said that such differences should be recognized and celebrated.

Councilmember Higgins expressed support for Councilmember Richins' proposal, including the special sub-area requirements for Lehi. She indicated that the purpose of the sub-area plans was to "call out" special areas in Mesa and demonstrate how they are unique to the community.

Mayor Smith stated that he shared the Vice Mayor's concerns regarding the City imposing special livestock regulations in Lehi when there are other areas in Districts 2 and 6 that have a similar history and rural lifestyle.

Mayor Smith commented that as staff moves forward with the livestock licensing process, he would hope that certain objective standards are created that would prevent a neighbor from challenging or blocking another neighbor's ability to obtain a license. He also stated that it might be appropriate for staff to identify those areas in the City that are similar in nature, history and use to Lehi (i.e., rural, decades of livestock use) and suggested that it should be easier for residents in those areas to obtain a livestock license as opposed to, for example, an entity building a residential subdivision on raw land.

Mayor Smith further indicated that he would support treating the Lehi sub-area different simply because of its unique character. He noted, however, that he was hopeful that the objective standards that staff develops with regard to the livestock licensing process would be applied on a broader basis to those areas of the community that are similar to Lehi.

Vice Mayor Jones suggested a revision to Paragraph 2 of Councilmember Richins' proposal as follows: "Supportive of a Lehi sub-area plan **and other neighborhoods with historical use** for the purposes of restoring historic livestock uses by right."

Councilmember Kavanaugh expressed concern with Vice Mayor Jones' suggestion because saying "and other historical areas" would place an undue burden on staff and create opportunities for arbitrary decision making. He added that Councilmember Richins' proposal is a reasonable compromise that would allow such areas to come in for increased ratios that could

only be granted through a Special Use Permit. Councilmember Kavanaugh added that it would also create an opportunity for the Council to see the pattern and practice that staff must deal with and may lead the Council to add additional sub-areas as they update the General Plan or modify the Livestock Ordinance.

Mayor Smith stated that there appears to be general support to establish a Lehi sub-area option and create livestock licensing rights throughout the City. He urged that the objective standards for granting such a license avoid the arbitrary decision making as alluded to by Councilmember Kavanaugh; take into account the historical use of the property and the surrounding property; and be as "regulatory light" as possible, while maintaining a balance between historic use and "those who come in afterwards."

Mayor Smith thanked staff for the presentation.

Mayor Smith stated that he received speaker cards from Mark Freeman and Larry Pew, both of whom were in support of amending the City's livestock regulations.

3. Discuss and provide direction on the Aquatics Program (Regional Pools).

Assistant Parks, Recreation and Community Facilities (PRCF) Director Mike Holste introduced PRCF Planning and Development Supervisor Andrea Moore, Aquatics Recreation Supervisor Darla Armfield, Mesa Public Schools (MPS) Athletic Department Director Dr. Steve Hogan and Aaron Muth, a representative from the Mesa Convention and Visitors Bureau.

Ms. Armfield displayed a PowerPoint presentation (**See Attachment 5**) and provided a brief overview of the May 15th grand opening of Kino pool and the September 5th grand opening of Rhodes pool. She also highlighted a graph illustrating Mesa's service area as it relates to the number of regional pools that were open in 2009. (See Page 2 of Attachment 5) Ms. Armfield further offered a statistical analysis of the attendance (i.e., public swim, swim lessons, competitive and reservations) at Mesa's pools in 2008 as compared to 2009. (See Page 3 of Attachment 5)

In response to concerns expressed by Mayor Smith regarding a significant decline in attendance for swim lessons in 2009, Deputy City Manager Bryan Raines stated that the recent downturn in the economy most likely impacted the ability of many families to afford lessons this summer.

Ms. Armfield concurred with Mr. Raines' comments and noted that in June, swim classes were 80% full, but said that in July that number decreased to 73%.

Discussion ensued relative to the fact that all of the City's pools complied with the Virginia Baker Graeme Pool and Spa Safety Act; that except for Taylor and Fremont, all City pools meet the minimum starting block diving depth; staff's efforts to successfully control Cryptosporidium at City pools; the creation of a swimsuit donation program; the success of evening swimming lessons at Fremont pool; and that staff anticipates receiving final FlowRider operational approval from Maricopa County in November.

Ms. Hoste reported that the planned closure of Taylor pool in the summer of 2010 would leave a service void until a replacement pool in south-central Mesa is constructed. He said that staff

recommends that the pool remain open until it can be replaced or a significant failure at the facility requires its closure. Mr. Hoste also noted that staff is considering the development of a future pool in southeast Mesa, which would complete the City's Regional Pool concept.

Further discussion ensued relative to the fact that an estimated 900 non-Mesa residents participated in swim lessons and competitive programs in 2009; that staff recommends implementing a 20% non-resident surcharge for future swim lessons (a \$4.00 increase) and competitive programs (a \$12.00 increase); that staff is hopeful that Mesa's quality Aquatics Program would continue to attract non-Mesa residents; and that Gilbert and Tempe impose a non-resident surcharge for their aquatics programs.

Councilmember Finter expressed appreciation to staff for recommending that Taylor pool, which is located in his district, remain open in 2010. He noted that staff responded to his constituents' concerns regarding the pool's closure in a responsive and attentive manner.

Councilmember Somers stated that he is pleased with staff's efforts to maintain "reasonable" capital costs for Mesa's other pools so that the future Skyline Park pool project can remain online and fully funded.

Vice Mayor Jones commented that his district has been affected more than other areas of the community with the closure of Mesa Junior High and Powell Junior High pools. He stressed the importance of Mesa succeeding with the Regional Pool model and added that when it is feasibly possible, he would urge that the City proceed with the construction of a pool in the area of Mesa High School to fill that void.

Mayor Smith clarified that the planned pool closures are meant to be a transition to a long-term Regional Pool Program. He expressed confidence that over the next five to ten years, Mesa would have a pool inventory that would last 30 years and accommodate the entire community.

Dr. Hogan addressed the Council and stated that the City and MPS have a great partnership that benefits everyone in the community. He expressed appreciation to Ms. Armfield for her efforts and hard work with regard to Mesa's successful Aquatics Program.

Dr. Hogan reported that MPS utilizes City pools for a variety of high school meets and junior high education curriculum. He explained that with the addition of Kino pool, MPS recently hosted the 1A through 3A State Championships and said that record times were set in almost every event. Dr. Hogan also announced that Mesa has been selected to host the 2011 U.S. Masters Short Course National Championships. He further noted that Mesa has submitted bids for the 2011 U.S. Synchronized Swimming Junior Open, the 2011/2012 NAIA College Championships, and the 2011/2012 NCAA Division 3 Championships.

Mr. Muth displayed a document entitled "Kino Aquatic Complex – Championship Schedule" and briefly highlighted the projected tax revenues that Mesa could generate as a result of the City being selected to host the 2011 U.S. Masters Short Course National Championships and other events highlighted by Dr. Hogan. **(See Attachment 6)**

Mayor Smith thanked everyone for the presentation.

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

Councilmember Somers: Arizona Aerospace Institute Board Meeting
Vice Mayor Jones: News conference to introduce the "METRO Arts and Cultural"
Ride Guide
Councilmember Higgins: Arizona Historical Society Museum Reception

5. Scheduling of meetings and general information.

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

Saturday, October 24, 2009, 10:00 a.m. – MACFest

Saturday, October 24, 2009, 5:00 p.m. – Annual G.A.I.N. (Getting Arizona Involved in Neighborhoods) Event

Thursday, October 29, 2009, 7:00 a.m. – Focus on Mesa: Council Strategic Initiatives Dialogue

Saturday, October 31, 2009, 10:00 a.m. – City Hall at the Mall, Superstition Springs Mall

Government Relations Director Scott Butler reported that late last night, the Arizona Corporation Commission's Line Siting Committee voted 6-2 in support of the Ryan Road alignment for the Abel-Moody Transmission Line Project. He explained that the Ryan Road alignment was Mesa's "acceptable choice" and said that the City opposed the Germann Road alignment because of potential impacts to the Queens Park neighborhood and the Gateway area.

Mr. Brady expressed appreciation to Mr. Butler and other staff members for their efforts and hard work regarding this item.

Mr. Butler further advised that it was anticipated that the Arizona Corporation Commission would make its final decision relative to the alignment in December of this year or January 2010.

6. Items from citizens present.

There were no items from citizens present.

7. Convene an Executive Session.

It was moved by Vice Mayor Jones, seconded by Councilmember Somers, that the Council adjourn the Study Session at 9:19 a.m. and enter into Executive Session.

Carried unanimously.

- a. Discussion or consultation for legal advice with the City Attorney. (A.R.S. §38-431.03A (3)) Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. §38-431.03A (4))

1. Spring Training
2. Meet and Confer

8. Adjournment.

Without objection, the Executive Session adjourned at 10:25 a.m.

SCOTT SMITH, 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 22nd day of October, 2009. 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 (6)