

# COUNCIL MINUTES

December 15, 1997

The City Council of the City of Mesa met in a Study Session in the Palo Verde Room 1 of the Centennial Conference Center, 201 North Center Street, on December 15, 1997 at 4:32 p.m.

## COUNCIL PRESENT

Mayor Wayne Brown  
Pat Gilbert  
John Giles  
Dennis Kavanaugh  
Joan Payne  
Wayne Pomeroy  
Claudia Walters

## COUNCIL ABSENT

None

## STAFF PRESENT

C.K. Luster  
Vince Anderson  
Pauline Backer  
Wayne Balmer  
Kathy Barrett  
Neal Beets  
Denise Bleyle  
Dennis Compton  
Mark Coon  
Bill Haney  
Mike Hutchinson  
Lars Jarvie  
Barbara Jones  
Richard Kasper  
Harry Kent  
Wayne Korinek  
Ron Krosting  
Dorinda Larsen  
Larry Lines  
Rich Lorig  
Greg Marek  
Ellen Pence

## STAFF PRESENT (CONT.)

Bryan Raines  
Andrea Rasizer  
Becky Richardson  
Sharon Seekins  
Doug Tessororf  
Debbie Vickman  
Jaime Warner  
Mindy White  
Paul Wilson  
Ralph Wisz  
Jim Wright  
Others

## OTHERS PRESENT

Robin Allen  
Bev Hart  
Pat Pomeroy  
Scott Rhodes  
Gary Stuart  
Others

### 1. Hear, accept, and consider the independent counsel's interim report concerning Judges Reeb and Allen.

Gary Stuart, Senior Member of Jennings, Strauss and Salmon, complimented the City of Mesa court staff for their high integrity and willingness to participate in the investigation. Mr. Stuart provided the Council with an overview of the interim report regarding the investigation into the allegations that Judges Reeb and Allen solicited a letter from a court employee. Mr. Stuart briefly described the procedures followed throughout the investigation.

Mr. Stuart highlighted a conversation he had with Debbie Parsons regarding the initiation of the letter and advised that the draft letter prepared by Judge Allen addressed a series of articles regarding the judicial selection process.

Mr. Stuart concluded that there was no compelling evidence that the letter signed by Debbie Parsons was modified or altered by anyone after she signed it. Mr. Stuart added that there is probable cause that Judge Reeb violated several Canons of Law with respect to the Debbie Parsons' letter. Discussion ensued relative to actions taken by Judge Reeb which involved meeting with a defendant outside the presence of the defendant's lawyer and without the presence of the City Prosecutor, and releasing a defendant out of normal court procedures at the request of a family member. Mr. Stuart noted that the investigation did not find any probable cause that Judge Reeb's actions constituted willful misconduct. Mr. Stuart stated that because of Judge Reeb's role in the Parsons' letter and other areas of concern, it is concluded that Judge Reeb engaged in conduct that is prejudicial to the administration of justice.

Mr. Stuart indicated that Judge Allen did not witness the final version of the letter, did not play a role in having the letter signed or mailed, and was not aware the letter would be mailed to the City Council or the Judicial Advisory Board. Mr. Stuart stated the opinion that Judge Allen did not engage in willful misconduct but that his conduct may be considered prejudicial to the administration of justice.

Mr. Stuart expressed the opinion that the Council should not reappoint Judge Reeb and that Judge Allen should be reinstated and removed from administrative leave status.

In response to a question from Vice Mayor Gilbert regarding the reporting process to the Judicial Conduct Commission, Mr. Stuart advised that the Executive Director of the Judicial Conduct Commission had previously been informed relative to the investigation and has subsequently received the interim report.

In response to a question from Councilmember Giles, City Attorney Neal Beets explained that the Judicial Advisory Board was created to consider the reappointment of judges and to develop standardized criteria and data for future use. Mr. Beets noted that the interim report prepared by Mr. Stuart focuses on the issue of misconduct and that, if true, may justify a form of discipline, rather than a contract renewal decision. Mr. Beets stated the opinion that the Judicial Advisory Board should utilize the standardized criteria to determine whether to renew Judge Reeb's contract and should not consider the independent counsel's interim report. Mr. Beets noted that if the issues of misconduct are pursued by the City Council, Judge Reeb would be entitled to a due process hearing.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Kavanaugh, to accept the interim report prepared by Mr. Stuart and to proceed with a final report inclusive of all issues contained within the interim report as well as any additional relevant issues that may emerge from the investigation.

Vice Mayor Gilbert clarified that the motion does not include removing Judge Allen's administrative leave status.

Mayor Brown stated that the administrative leave status of Judge Allen will be discussed at a future Council meeting.

Vice Mayor Gilbert stated concern with the conduct described in the interim report by a city magistrate and the handling of domestic violence cases in the Mesa City Court by that magistrate.

Councilmember Payne indicated support for the motion. Councilmember Payne stated concern with the method in which reported complaints have been handled in the past and stressed the importance of the City revising its procedures regarding the investigation of complaints.

Carried unanimously

2. Review items on the agenda for the December 15, 1997 Regular Council Meeting.

All of the items on the agenda were reviewed by Council and staff with no formal action taken. There was particular discussion with regard to the following agenda items:

9. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances.

- \*b. **Z97-80** The southeast corner of Stapley Drive and the Superstition Freeway. Rezone from AG to M-1 with a Council Use Permit (37± acres). This case involves development of a movie theater complex with pad buildings. Globe Corporation, owner; Vestar Development Company, applicant. **CONTINUED FROM THE NOVEMBER 17, 1997 REGULAR COUNCIL MEETING. CONTINUED TO THE JANUARY 20, 1998 REGULAR COUNCIL MEETING.**

Mayor Brown stated that this item will be removed from the consent agenda to provide the applicant an opportunity to present comments.

- c. **Z97-87** 1616 East Broadway. Requesting a Council Use Permit. This case involves a social service facility. Roman Catholic Diocese, owner; Christ the King Catholic Church, applicant.

Community Development Manager Wayne Balmer advised that a letter submitted by Ralph Pew, attorney for the applicant, indicates that Christ the King Church has agreed to eliminate the evening meal program. Mr. Balmer noted that based on the elimination of the evening meal program, staff would recommend approval of the request and suggested that Council consider directing staff to prepare a revised ordinance for introduction at the January 5, 1998 Regular Council Meeting.

- e. **Z97-94** The 600 Block of North Val Vista Drive - west side. Rezone from R1-15 to R1-15-PAD (17± acres). This case involves development of a 33-lot single-family residence subdivision. Norco Land Limited Partnership, owner; Farnsworth Holdings, Inc., applicant; also consider the preliminary plat of "Hidden Grove."

Mr. Balmer advised that an amended plan submitted by the applicant was accepted by the Engineering Department and the neighbors.

Mayor Brown stated that this item will be placed on the consent agenda.

- g. **Z97-96** The 2400 block of North 64th Street (east side). Rezone from R1-35 to R1-6 (1± acre). This case involves a 4-lot subdivision. Paul Yuresko, owner; Ray Mehan, applicant; also consider the preliminary plat of "Mehan Villas."

Mr. Balmer informed Council that a protest petition has been filed and that a 3/4 vote will be required for approval.

- i. **Z97-99** 2704 East McKellips Road. Rezone from R1-9 to C-2 (1± acre). This case involves development of an Auto Zone. Auto Zone, owner; Curtis Howell, architect, applicant.

Mr. Balmer discussed the applicant's request to construct an Auto Zone store in the front portion of the parcel and expressed staff's concerns regarding the future development of the rear portion of the property. Mr. Balmer explained that the Planning and Zoning Board did not recommend approval of the request based on the applicant's inability to provide a proposed use for the rear portion of the property.

Mayor Brown suggested that Council consider referring this case back to the Planning and Zoning Board.

3. Acknowledge receipt of minutes of meetings of various boards and committees.

- a. Design Review Board meeting held December 3, 1997
- b. Economic Development Advisory Board meeting held December 3, 1997

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that receipt of the above listed minutes be acknowledged.

Carried unanimously

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

Mayor Brown advised that there were no reports on meetings and/or conferences attended.

5. Scheduling of meetings and general information.

City Manager Charles Luster advised that the meeting schedule is as follows:

Friday, December 19, 1997, 7:30 a.m. - Study Session

Friday, December 19, 1997 - Utility Committee Meeting (immediately following the Study Session)

Tuesday, January 27, 1998, 7:30 a.m. - Breakfast with the Dobson Ranch Board of Directors

6. Prescheduled public opinion appearances (maximum of three speakers for five minutes per speaker).

Mayor Brown advised that there were no prescheduled public opinion appearances.

7. Adjournment.

Without objection, the Study Session adjourned at 5:50 p.m.

WAYNE BROWN, 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 15th day of December 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 23rd day of January 1998

BARBARA JONES, CITY CLERK