

COUNCIL MINUTES

October 1, 2007

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 1, 2007 at 4:30 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

(Items on the agenda were discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

1. Review items on the agenda for the October 1, 2007 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflicts of interest declared: 4k (Whalen)

Items removed from the consent agenda: 7f

Items added to the consent agenda: None

2. Hear an update and discuss collaboration between the Police Department and ICE.

Police Chief George Gascón advised that the presentation would provide an update on the collaboration between the Mesa Police Department and U.S. Immigration and Customs Enforcement (ICE) to address issues in the community. He introduced Alonzo Peña, ICE Special Agent in Charge, Assistant Special Agent in Charge Patricia Schmidt and Deputy Field Director for Detention and Removal Operations Jon Gurule, who were present to provide a broad overview of the functions of ICE and the partnerships that exist with the Mesa Police Department.

Special Agent Peña displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office), and he stated that immigration is a very complex issue. He advised that ICE was formed in 2003 by combining the Immigration and Naturalization Service and the U.S.

Customs Service into one agency under the Department of Homeland Security. Special Agent Peña said that the presentation would address two functions of ICE: the Office of Investigations, which is concerned with criminal investigations, and the Office of Detention and Removal Operations, which targets non-criminal activities. He explained that ICE has authority over everything that crosses the border legally or illegally, including people and merchandise. Special Agent Peña reported that the criminal investigation areas include narcotics and human smuggling, money laundering, document fraud, child pornography, cyber crimes, etc. He added that Cooperative Worksite Enforcement investigations target companies that knowingly hire illegal aliens. He advised that ICE partnered with Federal, State and local law enforcement agencies to create the Border Enforcement and Security Task Force (BEST Team) in order to streamline strategies and effectively utilize the available resources to improve the quality of life for residents (see Attachment 1). Special Agent Peña outlined the violent crimes that are associated with human smuggling, and he noted that 25 drop houses were identified in the City of Mesa in the past year. He stated that “287(g)” is a program that allows ICE to train State and local agencies regarding the enforcement of immigration laws, but Congress has eliminated the funding for the program.

Special Agent Peña reported that the “ACCESS” program enables ICE to provide subject matter expertise to local agencies regarding human smuggling, assistance in addressing gang and drug activity (including gang members who are in the country legally and illegally), and outreach to employers who wish to practice due diligence regarding employment issues. He outlined major operations conducted jointly by ICE and the Mesa Police Department, some of which address Mesa hotel/motel owners who knowingly harbor illegal aliens and human smuggling and money laundering cases.

Deputy Field Director Gurule stated that the Office of Detention and Removal Operations are the “uniformed” responders who remove illegal aliens from the United States and handle the administrative processing. He reported that ICE responded to 71 calls for assistance from the Mesa Police Department in the past year, which resulted in the apprehension of 440 illegal aliens.

Special Agent Peña said that ICE and the Mesa Police Department have a strong, healthy relationship. He advised that the mission of ICE in Arizona is to improve public safety and the quality of life for Arizona citizens through partnerships with local and State agencies.

In response to a question from Mayor Hawker, Chief Gascón stated that although ICE does not have funding available to provide “287(g)” training of Mesa jail personnel, the majority of Mesa’s prisoners would be processed at the Maricopa County Jail facility and these personnel have received the training.

Special Agent Peña responded to a question from Mayor Hawker by advising that ICE anticipates that funding for “287(g)” training would be available in the future.

Mayor Hawker suggested that “287(g)” training be placed on a future Council agenda to ensure that Mesa is able to participate when funding becomes available. He stated the opinion that the training could result in a cost savings for the City by enabling officers to expedite the removal of detainees from the custody of the Mesa Police Department.

Chief Gascón advised that the Mesa Police Department can access the ICE database from several locations, but the database is not available to officers on the street. He stated the opinion that although the "287(g)" training was valuable, the problem of identifying detainees who are being sought by ICE could be resolved by enabling Mesa police officers to process and fingerprint detainees. He said that Mesa's facilities are inadequate to address a large number of detainees and the City cannot afford the costs to confine these individuals in the Maricopa County jail.

Responding to a question from Councilmember Whalen, Special Agent Peña reported that because of a lawsuit in progress, the agency is currently prohibited from sending letters to employers regarding non-matching Social Security numbers. He added that proving that an employer knowingly or intentionally violated the law is extremely difficult.

In response to a question from Councilmember Jones, Chief Gascón stated that "287(g)" training would enable Mesa Police to identify individuals presently in the national database.

Discussion ensued relative to the fact that "287(g)" training provides local officers with the authority to identify, interview, arrest and process individuals with criminal records; that ICE does not have the resources to be present to interview each of these individuals; and that the proceeds from asset forfeiture are shared with local agencies.

Councilmember Rawles expressed concern that individuals charged with minor offenses could be incarcerated in the Maricopa County jail facility.

Chief Gascón stated that the goal is to positively identify detainees before they are released. He noted that creating an arraignment center in Mesa would enable the Police to address these types of offenses more effectively.

In response to comments from Councilmember Rawles, Special Agent Peña confirmed that he does not anticipate that Congress will provide additional funding for the "287(g)" program in the future.

Mayor Hawker thanked the representatives from ICE and Chief Gascón for the presentation.

3. Discuss and provide direction on the process for appointing a Councilmember to fill the vacancy in District 5.

Mayor Hawker reported that Councilmember Rex Griswold resigned his District 5 Council seat on September 26th in order to run for Mayor in the March 2008 Primary Election. He proposed that the Council conduct an open process to select a replacement similar to the manner in which citizens are appointed to a Board or Commission. Mayor Hawker stated that he could review the applications submitted by individuals who meet the two-year residency requirement and make a recommendation to the Council. He suggested that applicants provide information regarding any previous City involvement and community service.

Councilmember Whalen requested that Councilmembers receive a copy of the information submitted by each applicant.

City Attorney Debbie Spinner confirmed that applications for the position would be a matter of public record. She advised that although the Charter does not specify the selection process, the Charter requires that the appointment be made within 30 days. Ms. Spinner added that any Council discussion of the applicants would have to occur during a public meeting in accordance with the Open Meeting law.

Mayor Hawker recommended that the application form include a request that the applicants identify their aspirations and the goals to be accomplished during the seven-month term as the District 5 Councilmember.

Vice Mayor Walters suggested that applicants be provided with an overview of responsibilities that the position of Councilmember entails. She noted that several years ago, she was appointed to serve the balance of a Council term and although she had extensive experience with Mesa Public Schools and community involvement, there was a lot to learn in a short amount of time. Vice Mayor Walters said that the workload of a Councilmember requires between 20 and 50 hours per week, depending on the amount of constituent involvement.

Councilmember Rawles expressed support for a process in which the Mayor would narrow the field of applicants to four or five for consideration by the full Council. He suggested that each applicant provide a maximum of five letters of reference. Councilmember Rawles added that he was not likely to support an applicant who intended to be a candidate in the March Primary Election.

Ms. Spinner confirmed that each applicant must be a qualified elector in District 5 with no felony convictions and that the appointment is for a seven-month term until the individuals elected in the March/May election cycle take office in June of 2008.

Discussion ensued relative to the fact that an individual should not be eliminated from consideration based on the fact that he or she intends to be a candidate in the March 2008 Primary Election; that a qualified individual with experience could be of benefit to the City; that the Mayor has the authority to decide the manner in which a public meeting is held; that the Open Meeting Law prohibits the Mayor from accepting comments from individual Councilmembers regarding applicants unless the comments are made during an open public meeting; that the interview process could be conducted in an informal manner at a public meeting in a different location; and that an opportunity for public comment could be provided at the time the Council makes the appointment.

Mayor Hawker advised that the Council has 30 days from September 26th, the date of Councilmember Griswold's resignation, to appoint a replacement. He suggested that October 10th be established as the deadline for submitting applications, which would be reviewed by the Councilmembers. Mayor Hawker noted that a Special Election would be required if a replacement is not appointed during the 30-day timeframe.

Councilmember Somers expressed support for a process in which Mayor Hawker would narrow the field of candidates to be interviewed by the Council.

Mayor Hawker asked his Chief of Staff, Heidi Gast, to come forward. He requested that a press release be prepared announcing the October 10th deadline for applications and that the list of candidates be narrowed to three to five individuals for consideration by the Council at the

October 15th Study Session. Mayor Hawker stated that interviews could be held on October 18th and that the Council decision regarding the appointment could be announced no later than October 26th. He noted that the appointment requires the concurrence of four Councilmembers.

Ms. Spinner confirmed that a failure to appoint a replacement for the District 5 Council seat by October 26th would require that a Special Election be held no later than 120 days following the vacancy and that the person elected would serve the balance of the term, which expires in January of 2011.

City Clerk Linda Crocker advised that a petition process would be required in order for a candidate to be included on a Special Election ballot for the District 5 Council seat. She stated that after filing a Statement of Organization, the timeframe would be between November 12th and December 12th for a candidate to submit the required minimum of 356 signatures on candidate petitions.

Additional discussion ensued relative to the fact that an individual who intends to become a District 5 candidate in the March 2008 Primary Election could file a Statement of Organization with the Clerk's Office after the interim appointment is made (after October 26th) and initiate a petition process; and that a Special Election and a Primary Election each have a different petition process.

Councilmember Rawles requested that the Councilmembers be provided with copies of all of the applications for the District 5 Council seat appointment no later than the end of the day on October 11, 2007.

Ms. Spinner advised that copies of emails or letters received by the Mayor or individual Councilmembers in support of a candidate could be provided to the other members of the Council. She noted that the candidate applications and related emails are a matter of public record and that the information provided to each Councilmember would also be provided to members of the press.

Ms. Gast advised that she would work with the Public Information Office to publicize and initiate the application process.

4. Discuss and provide direction regarding the possible changes to the Ethics Handbook for Elected Officials and Advisory Board Members.

Mayor Hawker stated that a proposed change to the Ethics Handbook would clarify the provision, which states, "Elected officials, advisory board members and candidates shall not engage in political campaigning at City meetings or within city buildings." He expressed the opinion that candidate debates and issues forums, such as those sponsored by the Arizona Republic and the East Valley Tribune, were valuable to the community.

City Attorney Debbie Spinner concurred with Mayor Hawker's comments that private entities could lease City facilities for the purpose of holding political debates. She explained that the area of concern relates to language in the Ethics Handbook that could prohibit candidates from participating in a debate held at a City facility. Ms. Spinner advised that, at the direction of the Council, staff would draft language to clarify the issue and present the proposal for Council consideration at a future meeting.

Councilmember Rawles said that his primary concern was not related to the actual use of City buildings, but that “political campaigning” in City buildings has the potential to disrupt City business.

Ms. Spinner stated that the intent of the provision was to avoid disruption of City business, but she commented that the manner of enforcement would be difficult to define.

Councilmember Rawles expressed support for clarifying the language.

Mayor Hawker noted that there was concurrence among the Councilmembers that staff be directed to draft language that would clarify the issue and present the proposal to the Council at a future meeting.

5. Acknowledge receipt of minutes of various boards and committees:

- a. Transportation Advisory Board meeting held on August 21, 2007.
- b. Transportation and Infrastructure Committee meeting held on August 23, 2007.
- c. Audit and Finance Committee meeting held on September 13, 2007.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

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

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

7. Scheduling of meetings and general information.

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

Thursday, October 4, 2007, 7:30 a.m. – Study Session

8. Prescheduled public opinion appearances.

- a. Hear from Erin Henderson regarding pellet guns and a playground in her neighborhood.

Erin Henderson, 630 West 2nd Street, stated that neighborhood youth were using pellet guns manufactured to simulate assault weapons to create a disturbance and injure pets. She expressed concern that police officers responding to calls regarding the behavior would have difficulty accessing the situation and the authenticity of the weapon. Ms. Henderson requested that the Council ban these toys and that a playground be installed in the neighborhood.

9. Adjournment.

Without objection, the Study Session adjourned at 5:56 p.m.

KENO HAWKER, 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 1st day of October 2007. 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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Attachment (1)