

# COUNCIL MINUTES

January 7, 2002

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 January 7, 2002 at 4:17 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner

### 1. Review items on the agenda for the January 7, 2002 Regular Council Meeting.

All of the items on the agenda were reviewed among Council and staff with no formal action taken. There was specific discussion relative to the following items:

City Manager Mike Hutchinson advised the Council that agenda item 6b will be continued to the January 28, 2002 Regular Council Meeting.

Vice Mayor Davidson declared potential conflicts of interest on agenda items 7a (Authorizing the City Manager to enter into an Intergovernmental Agreement between Signal Butte Manor III Street Lighting Improvement District and the City of Mesa), 7b (Authorizing the City Manager to enter into an Intergovernmental Agreement between McGavin Ranch Street Lighting Improvement District and the City of Mesa for the operation and maintenance of street lighting facilities) and said he would refrain from discussion/participation on these items.

Mayor Hawker stated that agenda item 9e will be added to the consent agenda and agenda item 9g will be removed from the consent agenda.

### 2. Discuss and consider financing for a portion of East Mesa Electronic Streets Loop.

E-Streets and Licensing Director Dan Brewer, Economic Development Director Richard Mulligan and Management Assistant Ed Archibald addressed the Council relative to this agenda item. Mr. Brewer reported that the purpose of today's presentation is to seek Council

authorization to obtain municipal lease financing for the construction of an East Mesa fiber optic conduit system.

Mr. Brewer commented that the occurrence of businesses demanding broadband services (networks capable of carrying multiple channels of switched, interactive, multimedia communications such as voice, data and video) has become increasingly widespread and that economic development opportunities for cities unable to offer the services are being hampered. He added that it is also necessary to enlarge the City's broadband network to connect distant City building clusters to a variety of services provided by voice, data and video systems.

Mr. Brewer displayed graphics in the Council Chambers and provided a brief overview of the proposed fiber optic conduit system. (See Attachments 1 and 2.) He stated that the system would connect three of the East Mesa employment centers including Falcon Field, Superstition Springs and Williams Gateway Airport (WGA); the fact that eight of the 12 conduits in the loop would be offered to the private sector at a cost which would cover City and private sector costs; the fact that by utilizing the City's utility projects trenching, the construction cost of the approximately 36-mile loop is estimated at \$7.3 million; the fact that the City has an immediate need to finance approximately \$3.8 million for the construction of the four sections of the conduit system, and the fact that if that amount were financed over ten years, the City's annual debt service would be approximately \$540,000.

Mr. Brewer advised that in response to invitations issued by staff to private sector communications companies, Cox Communications has signed a non-binding letter of intent requesting access to two conduits for a two-mile span on the western side of the loop, and that Americom has signed a non-binding letter of intent requesting access to two conduits for 13 miles on the western side of the loop.

Mr. Brewer informed the Council that the City does not have the necessary cash reserves or approved bonding required to finance the East Mesa loop, but that staff has been approached by aggregate networks to finance it through municipal lease financing. He stated that it is the recommendation of staff that the Finance Division seek alternative sources of municipal lease financing to cover the cost of construction (less proceeds from the sale of the conduit) for the first four sections of the loop where City trenching is scheduled to begin shortly. Mr. Brewer added that once alternative offers for financing are identified and a comparative study is completed, a financing agreement for the first four sections will be presented to the Council for approval.

Mr. Mulligan commented that if Mesa is going to be competitive with regard to attracting and locating businesses such as call centers, data centers and manufacturing facilities, it is critical that the City possess the necessary telecommunications infrastructure required by those entities. He added that while broadband services are more readily available in west Mesa, the east and northeast portions of the City are lacking in such services to offer prospective businesses that are considering locating to the community.

Discussion ensued relative to the City's ability to connect the proposed fiber optic conduit loop to outside Internet carriers via a "sea of glass."

Councilmember Kavanaugh voiced support for staff's recommendation and commented that Mesa's technology infrastructure is equally as important as the City's roadway and utility infrastructure. He stated that without high-speed, broadband services, Mesa will be unable to compete with other Valley communities for greater economic development.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that staff's recommendation that they seek alternative sources of municipal lease financing for the construction of an East Mesa fiber optic conduit system be approved.

Councilmember Walters concurred with the opinions of Councilmember Kavanaugh and voiced support for greater connectivity at Williams Gateway and Falcon Field Airports.

Further discussion ensued regarding the concurrent installation of the fiber optic conduit with the various City utility projects.

Vice Mayor Davidson thanked staff for their effort and hard work relative to this matter. He also stressed the importance of ensuring that staff possess the capability to link the East Valley loop to outside Internet carriers and provide greater connectivity to the City.

In response to a question from Councilmember Pomeroy, Mr. Brewer clarified that at this time, staff is not requesting an expenditure of funds, but is seeking a conceptual approval of expenditures.

Councilmembers Pomeroy and Whalen voiced support for the motion.

In response to a question from Councilmember Jaffa relative to the definition of "employment centers," Mr. Mulligan clarified that the primary criteria includes the location of the City's major employers and key business parks, as well as the areas of M-1 and PEP zoning.

Mayor Hawker stated that although he is somewhat reluctant to utilize municipal lease financing, he will support the motion to allow staff to identify alternative sources of municipal lease financing and complete a comparative study. He requested additional assurances from staff that the City will have the ability to accommodate the \$540,000 debt service, and also requested that staff conduct further research to determine whether the project could be established as an enterprise zone. He asked staff to provide the Council with a detailed report regarding the joint sharing of the trenching, as well as trenching cost allocations.

Carried unanimously.

3. Discuss and consider a proposal for improving Gilbert Road north of McDowell Road.

Assistant Development Services Manager Jeff Martin addressed the Council relative to this agenda item and reported that staff is seeking Council approval to proceed in negotiating an Intergovernmental Agreement (IGA) with Maricopa County regarding two road-widening projects. He advised that the projects include widening Gilbert Road from McDowell Road to the Beeline Highway, and also 1500 feet of Val Vista Drive between Thomas Road and the South Canal.

Mr. Martin reported that the funding negotiations for the project were complicated due to the involvement of five agencies including the Salt River Pima-Maricopa Indian Community, the Arizona Department of Transportation (ADOT), Maricopa County, the Maricopa Association of Governments (MAG) and the City. He said that in addition to the street widening, additional projects in the vicinity include rebuilding McDowell Road as a two-lane roadway and the construction of a screen wall along the Red Mountain Freeway.

Mr. Martin displayed graphics in the Council Chambers and provided a brief description of the proposed Gilbert Road project. (See Attachment 3.) He also outlined for the Council the financial contributions by the various entities related to the Gilbert Road Project and the McDowell Road Project. (See Attachment 4.)

Mr. Martin noted that the City and the County also agreed to fund widening 1500 feet of Val Vista Drive located in the unincorporated area from Thomas Road to the South Canal. He said that in the next fiscal year, the City will fund construction of the 1500 feet as a separate project since utilities must be relocated and right-of-way must be acquired, and that planned improvements on Val Vista from McDowell to McKellips would proceed as scheduled this spring and would include temporary improvements for the 1500 feet in the unincorporated area.

In response to a question from Councilmember Walters, Mr. Martin clarified that the Federal government will not contribute funding for the construction of a bridge to replace a low-flow crossing which has been washed out.

Councilmember Walters urged staff to ensure that if flooding in the Salt River was to occur, that the existing bridge could be utilized for both north and south access.

In response to a question from Councilmember Whalen regarding equestrian access along the east side of Gilbert Road, Transportation Director Ron Krosting advised that at a recent neighborhood meeting, residents proposed the construction of a vinyl fence to separate the horses from the roadway. He said that the County has taken the proposal under consideration.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that staff's recommendation to proceed in negotiating an Intergovernmental Agreement with Maricopa County regarding road-widening projects on Gilbert Road and Val Vista Drive be approved.

Vice Mayor Davidson commended staff, Maricopa County and the Indian Community for their efforts to resolve this issue and to ensure that Gilbert Road is better able to accommodate the motoring public.

Mayor Hawker expressed support for the motion, but noted that with reference to the City's contribution for the construction of the screen wall, it was his understanding that the Indian Community would also contribute to the costs. He said he would like this to occur and reduce the City's share of the costs.

In response to a question from Councilmember Jaffa, Mr. Martin explained that although it was staff's preference to construct a bridge over the Salt River for northbound traffic on Gilbert Road, sufficient funding was unavailable and a low flow crossing will be utilized instead.

Carried unanimously.

4. Discuss and consider a proposal to publicize the March 12, 2002 Primary election at future City Council meetings.

Mayor Hawker stated that in an effort to generate voter interest and participation in the upcoming March 12, 2002 Primary Election, he requested the City Attorney's Office to provide the Council with a legal opinion concerning the following two issues:

1. Can the Council present a map showing the Council districts, along with a photograph of the candidates, and identify the candidates at the City Council meetings?
2. Can the Council recognize the candidates who are in attendance at the City Council meetings?

City Attorney Debbie Spinner addressed the Council relative to this agenda item and provided a brief analysis of the pertinent State and Federal law which applies to these issues. (A verbatim transcript of her remarks is available in the City Clerk's Office.)

She expressed the opinion that with regard to Question No. 1, the Council could present a map at the end of the City Council meetings which illustrates the various Council districts and that the Council candidates may be identified by district. She cautioned, however, that if the Council wished to display photographs of the candidates, her office would be required to obtain pre-clearance from the United States Department of Justice.

Ms. Spinner explained that under the 1965 Civil Rights Act, Arizona is considered a "covered jurisdiction," which means that any time an occurrence takes place which affects voting, it is necessary to obtain pre-clearance from the Department of Justice for that action. She advised the Council that in speaking with a representative from the Department of Justice earlier today, she was informed that her department could request an expedited pre-clearance and that she could possibly receive a response prior to the next Council meeting.

Ms. Spinner provided a legal analysis with regard to Question #2 and stated that in her opinion, Council should not recognize City Council candidates who may be present in the audience at the Regular Council meetings.

Mayor Hawker commented that candidates could avail themselves of the opportunity to speak at the end of the Council meeting during the "Items from citizens present" agenda item.

In response to a question from Mayor Hawker relative to displaying the district maps and reading the names of the Council candidates during his State of the City address this evening, Ms. Spinner stated the opinion that this would be appropriate due to the fact it is fair and neutral information being disseminated to Mesa citizens. She added that Mayor Hawker should not

recognize Council candidates who may be present in the audience, but simply acknowledge all of the candidates.

Mayor Hawker requested input from the Council relative to this agenda item.

Councilmember Pomeroy stated that it is imperative that Mesa citizens are apprised of the newly created Council districts and suggested that the Council follow the advice of the City Attorney.

In response to a question from Councilmember Jaffa relative to the Council's ability to display the ballot language of Proposition 300 at the Regular Council meetings, Ms. Spinner clarified that it would be necessary to obtain pre-clearance from the Department of Justice regarding this matter.

Councilmember Walters expressed support for obtaining the pre-clearance and said that it would benefit Mesa residents to have access to as much information as possible.

In response to a question from Councilmember Walters, Ms. Spinner clarified that if more than three Council candidates wish to speak during the "Items from citizens present" agenda item at the Regular Council meeting, the Council should recognize all of the candidates to provide a fair and neutral presentation.

Mayor Hawker noted that it appears to be the consensus of the Council to provide Mesa citizens with election information, including displaying district maps, and also to provide information on ballot referendums and propositions which may require Department of Justice approval. He added that in his opinion, this information is appropriate and should be disseminated to the public, and that staff should proceed with obtaining the necessary approval to recognize Council candidates and to discuss ballot issues.

Councilmember Pomeroy stated he would prefer to proceed with Ms. Spinner's recommendations only and not to seek Department of Justice approval regarding the other issues at this time.

Councilmember Kavanaugh expressed support for obtaining Department of Justice approval for ballot propositions, but not to obtain clearance to display the candidates' photographs.

5. Acknowledge receipt of minutes of boards and committees.

- a. Downtown Development Committee meeting held December 20, 2001.

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

Carried unanimously.

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

Due to time constraints, this item is continued until a future Study Session.

7. Scheduling of meetings and general information.

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

Wednesday, January 9, 2002, 4:00 p.m. – Utility Committee Meeting

Thursday, January 10, 2002, 7:30 a.m. – Special Council Meeting

Thursday, January 10, 2002, 7:35 a.m. – Study Session

Thursday, January 10, 2002, 9:30 a.m. – General Development Committee Meeting

Thursday, January 17, 2002, 7:30 a.m. – Study Session

8. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

9. Adjournment.

Without objection, the Study Session adjourned at 5:40 p.m.

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KENO HAWKER, MAYOR

ATTEST:

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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 7<sup>th</sup> day of January 2002. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK

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Attachments