

COUNCIL MINUTES

January 7, 1999

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, 1999 at 7:30 a.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
John Giles
Keno Hawker
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Wayne Balmer
Neal Beets
Steve Burg
Mike Claspell
Linda Crocker
Bob DeLeon
Jack Friedline
Mike Hutchinson
Barbara Jones
Harry Kent
Wayne Korinek
Dorinda Larsen
Jeff Martin
Tom Mattingly
Frank Mizner
Ellen Pence
Bryan Raines
Andrea Rasizer
Tom Remes
Jenny Sheppard
Doug Tessendorf
Mindy White

OTHERS PRESENT

Mike Hughes
Bonnie Koppell
Joan Newth
Marty Whalen
Others

1. Hear, discuss and consider a revised report of the Ad Hoc Committee on Ethics.

Councilmember Kavanaugh, who serves as Chairman of the Mayor's Ad Hoc Committee on Ethics, stated that in October, the Committee presented three recommendations to the Council: 1) the adoption of an Ethics Code of Conduct for elected and appointed officials; 2) to provide orientation and training for members of the City's advisory boards and Council on the Code of Conduct and the various State laws and City codes that apply to their behavior; and 3) a proposed charter amendment for the ballot of the March 2000 election that would deal with the creation of an Ethics Advisory Board and a mechanism for enforcement/updating/and revising the Code.

Chairman Kavanaugh advised that at this time the Committee is recommending that the City Council proceed with the first two recommendations listed above, namely the adoption of the Code of Conduct and concurrent with that action, authorize staff to work to provide training and orientation. Chairman Kavanaugh added that the Committee intends to readdress and present recommendations regarding Charter changes later on in the year. Chairman Kavanaugh

discussed efforts expended by the Committee to identify and respond to concerns and introduced the members of the Committee present at the meeting to the Council.

Discussion ensued among the members of the Council relative to various scenarios that may occur and whether those actions would constitute ethics violations. City Attorney Neal Beets emphasized the importance of recognizing the spirit and thrust of the Code. Chairman Kavanaugh commented that the Committee recognized that questions will arise from time to time and said that is why the Committee will be recommending the creation of a permanent Ethics Advisory Committee. Chairman Kavanaugh added that until such time as a permanent committee is in place, ethics related questions should be discussed with the City Attorney.

Discussion ensued relative to the definition of 'regular' meetings and excused absences, the importance of avoiding even the appearance of unethical behavior, and the fact that specific occurrences will have to be addressed on a case by case basis.

It was moved by Vice Mayor Giles, seconded by Councilmember Davidson, that this issue be placed on the agenda of a Regular Council Meeting for Council action.

Carried unanimously.

2. Discuss and consider various issues arising from implementation of Council Districts.

City Attorney Neal Beets commented that a number of issues were raised during the process of drawing the various districts and said that staff has attempted to address and respond to those items. Mr. Beets referred to a copy of a memorandum dated December 10, 1998, which was submitted to the Council, (copy attached), and stated that he would respond to any questions that remain unanswered.

Mayor Brown thanked Mr. Beets for his input.

3. Consider a report on a proposed update of Building Codes.

Building Inspections Superintendent Tom Mattingly addressed the Council relative to this agenda item. Mr. Mattingly advised that the currently adopted 1994 Building Construction Codes are becoming outdated and added that in an effort to remain consistent with other Maricopa County jurisdictions, staff is recommending that the Council update the City's Codes by adopting the 1997 version. Mr. Mattingly commented that the Codes should be adopted by the Council prior to July 1999.

Mayor Brown and the members of the Council indicated that they support staff's recommendations.

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

Councilmember Hawker reported on this attendance at a View 2025 Committee meeting and discussed the concept of conservation easements. Councilmember Hawker also advised that Fire Chief Dennis Compton attended one of the meetings and talked about public safety, specifically the joint inter-city usage on fire response teams.

Mayor Brown discussed a meeting of the County Board of Supervisors that he, City Attorney Neal Beets, Chamber of Commerce Executive Director Charlie Deaton and Planning Director Frank Mizner attended to address the City's concerns regarding a case that was before the Board. Mayor Brown commented on the importance of protecting the Williams Gateway Airport area and noted that the Board of Supervisors delayed voting on the case until January 20, 1999. Mayor Brown urged the members of the Council to plan on attending the meeting on January 20, 1999 and discussed his intention to also invite Queen Creek Mayor Mark Schnepf and Gilbert Mayor Cynthia Dunham to attend.

5. Scheduling of meetings and general information.

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

Friday, January 8, 1999, 7:45 a.m. – Council Study Session

Friday, January 8, 1999, immediately following Study Session – General Development Committee

Tuesday, January 19, 1999, 5:45 p.m. – Regular Council Meeting

Tuesday, January 26, 1999, 5:30 p.m. – Transportation Advisory Board Meeting

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

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

7. Items from citizens present (maximum of three speakers for three minutes per speaker).

Mayor Brown advised that there were no items from citizens present.

8. Adjournment.

Without objection, the Study Session adjourned at 9:06 a.m.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

Attachment

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 7th day of January 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK

Office of the City Attorney

TO: Jeff Martin
THRU: Neal Beets
FROM: Steve Burg
DATE: December 10, 1998
RE: Issues Arising in Implementation of Council Districts

Although we are focusing our efforts currently on adopting Council district boundaries, a number of people have raised questions concerning implementation of the district boundaries once they are adopted for use in the 2000 election. These post-boundary drawing issues require the attention of the City rather than the Council District Commission. It is not possible to answer all questions that may arise, but our Office has developed some preliminary thoughts that may help guide the implementation process. Specific factual circumstances may occur in implementation that have not been contemplated in developing this memo, so it is likely that our Office will need to be consulted for further advice when such circumstances are presented.

The implementation issues involve two categories: (1) the determination of which three of the six districts that will be subject to the 2000 election and (2) requirements for nominating petitions in those district elections.

Before discussing these categories, one side issue is the naming of the districts once the boundaries are drawn. City Charter § 201(A)(4) states: "For identification purposes, districts shall be numbered one (1) through six (6)." Nothing in the Charter prohibits naming the districts in addition to designating each by number, if the City Council was inclined to do so (possible naming approaches include using high school names, prominent regional park names (e.g. Riverview, Red Mountain, etc.), prominent commercial or natural landmarks (e.g. Fiesta, Superstition, etc.), or some combination of the above.

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Three District Elections in 2000

The amendment to City Charter § 201(F) states: "Districts that contain the residences of Councilmembers whose first four (4) year term expires in 2000 shall each elect one (1) District Councilmember in the 2000 City election cycle." The Councilmembers that this provision applies to are John Giles, Dennis Kavanaugh, and Keno Hawker (who was elected in 1998 to complete a four-year term that expires in 2000). These three individuals reside respectively at:

John Giles - 2337 East Nora
Dennis Kavanaugh - 2146 West Isabella
Keno Hawker - 1364 West Escarpa St.

If district boundaries are created that place these three residences in three different districts, then those districts will be subject to the 2000 election (note that it does not matter whether or not any one or more of these individuals chooses to seek election). If the three residences are not in different districts, then further action will be necessary.

If district boundaries are created that place one of the residences in one district ("District A") and the other two residences in the same district ("District B"), then the 2000 election will cover District A, District B, and a third district to be chosen by lot. § 201 (F) states: "A drawing by lot of the remaining districts shall be conducted, if necessary, to insure that there shall be elections in three (3) of the six (6) districts in the 2000 City election cycle." Such a drawing would involve the remaining four districts ("Districts C-F").

The method of "drawing by lot" is not specified in the Charter and thus would have to be chosen by the City. If the City Council does not have a preferred method, we suggest that the City Clerk draw by lot the district or districts that will conduct district elections in the year 2000.

If district boundaries instead are created that place all three of the residences in the same district ("District A"), then the 2000 election will cover District A and two other districts chosen by lot. The drawing of those two districts would involve a similar choice of methods, and any method chosen would seem to be available for use under either scenario.

If a drawing is necessary, it should be held as soon as possible after the City receives written approval of the district boundaries from the Department of Justice.

Nominating Petition Requirements

Pursuant to the residency requirements stated in City Charter § 201(B)(2), any candidate for one of the three council district positions to be elected in 2000 first must have been a resident of the district for at least two years immediately preceding filing nomination papers with the City Clerk. The nominating petition requirements themselves continue to be governed by State law (principally A.R.S. § 16-322(A)9.).

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State law requires that nomination petitions for council district elections be signed "by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent" of the designated vote in the district with the "basis of percentage" calculated by the vote for mayor at the last preceding election at which a mayor was elected.

When it established council districts, Glendale took the city-wide vote for all candidates for mayor in the most recent election and divided it by six. Then that number was multiplied by five percent to arrive at the minimum nominating petition signature requirement for each of the three districts that were up first for election. In the words of Glendale's attorney, Dave Pennartz: "This seemed to be the fairest way and we had no complaints about it."

We can think of no fairer way to do it, so we propose that Mesa adopt the Glendale approach for calculating the "basis of percentage" to be used for the petitions in the three districts that will be subject to the 2000 election. Therefore, Mesa should total the votes for mayor in the 1996 election and divide that number by six to arrive at the "basis of percentage" to be used in the five percent minimum calculation. In 1996 the total vote for mayor was 27,288, which divided by six equals 4,548. Five percent of that number is 228 (rounded up). Thus, the minimum number of signatures required on nomination petitions for candidates in each of the three council districts to be chosen for the 2000 election is 227.¹

On one final issue, changing to the district system also raises a question concerning the requirement of residency of petition circulators. Section 1-8-2 of the City Code requires that Councilmember nomination petition circulators be "qualified Mesa electors" under Section 1-8-1. The City Code does not require that circulators must reside in a specific district, only that they reside in the City. As a result potential candidates for Council in the 2000 and subsequent elections may use nomination petition circulators who are "qualified electors" residing anywhere within the City.

If you have questions or comments concerning this analysis and our recommendations, please let me know.

¹ Among the other changes brought by the new council district system is the calculation of the minimum number of petition signatures required for recall of district Councilmembers. According to A.R.S. § 19-201(A), the minimum number of required signatures for each Council district is calculated by taking 25 percent of the votes cast in the most recent election for all Councilmember candidates for that district (rather than the City-wide total). For example, if you assume that approximately 5,000 people vote for City Council candidates in a specific district, then 1,250 valid signatures (25% of 5,000) would be needed to trigger a recall election of a district Councilmember. Note that this change will not affect the present requirements applicable to recalling the remaining three at-large Councilmembers as they complete their four-year terms during the 2000-2002 transition period. Instead, the at-large Councilmembers would remain subject to the recall rules as they existed when the Councilmembers were elected, meaning that 6,404 valid signatures (25% of 25,613 -- the total vote for at-large Councilmembers at the 1998 election) would be needed.