

COUNCIL MINUTES

October 2, 2003

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 2, 2003 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Dennis Kavanaugh
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

1. Hear an update on the Southeast Valley Study and the Williams Gateway Area.

Project Manager for Williams Gateway Regional Economic Activity Area Wayne Balmer and Lynn Kusy, Executive Director for Williams Gateway Airport, addressed the Council relative to this agenda item.

Mr. Balmer displayed graphics in the Council Chambers and provided a brief overview of the Southeast Valley-Pinal County Study Area Report, a cooperative effort of not only the City of Mesa and the Maricopa Association of Governments (MAG), but a number of other communities as well. He explained that the study focused on the development of the Williams Gateway area as a major employment center and discussed future transportation implications if this were to occur. Mr. Balmer highlighted statistical data contained in the report including major employment clusters; the projected population for Maricopa and Pinal Counties; the effects of growth; public/private investment in the Williams Gateway area; the ASU East and Williams campus; and various Planning and Zoning issues.

Mr. Kusy referred to the same graphics presentation and highlighted key aspects of the ongoing airport business development including 100,000 square feet of new private investment facilities, 33 tenants, an on-site U.S. Customs Office, commercial charter flights, and a new cargo ramp and taxiway.

Mr. Balmer also spoke regarding future freeway projects that will provide greater access to the Southeast Valley-Pinal County area and Williams Gateway Airport; study recommendations relative to traffic, employment, and the development of a sub-plan area for Williams Gateway;

and the expansion of Mesa's water and wastewater systems to support job and business development.

Discussion ensued relative to funding sources for various street projects adjacent to Williams Gateway Airport, and the City's annual contributions to the Williams Gateway Airport Authority.

Mayor Hawker thanked Mr. Balmer and Mr. Kusy for the presentation.

2. Discuss and consider potential changes to the Mesa City Charter.

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

Special Assistant to the City Manager/Mayor Eric Norenberg addressed the Council relative to proposed changes to the Mesa City Charter that, if approved by the Council, would be placed on the March 9, 2004 Primary Election ballot. He reported that staff has been working on this issue for several months and acknowledged City Attorney Debbie Spinner, City Clerk Barbara Jones and Materials Management Director Sharon Seekins for their efforts and hard work in this regard.

Mr. Norenberg referred to Section 201 (A) 5 of the Charter relative to "City Council Composition, Eligibility, Terms and Elections," and explained that the phrase "The redrawing of district boundaries shall not remove the residence of an incumbent Councilmember from the district he was elected to represent during his term in that office" is in conflict with the U.S. Department of Justice's guidelines for redistricting under the Voting Rights Act and should be deleted. He stated that the appropriate replacement text would be: "If the redrawing of district boundaries removes the residence of an incumbent Councilmember from the district he was elected to represent, he may complete the full term for which he was elected to serve." Mr. Norenberg commented that the new language would prevent gerrymander districts and allow a Councilmember who is midway through a term in office when redistricting takes place to complete his/her term without moving back into the former district boundaries.

Discussion ensued relative to the fact that although the City may be required to redistrict and a Councilmember were elected from a given district, that individual would continue to represent the constituents who elected him/her; that the Justice Department views the voting power of minorities as a key issue in redistricting and if that voting power is adversely affected, that would be a controlling issue over protecting and keeping the incumbent in the district in which they have been elected to serve; and that per the City Charter, redistricting occurs every ten years (next scheduled for 2010).

Councilmember Thom commented that the proposed Charter amendment would bring the City into closer conformity with State law. She also questioned whether it would be appropriate for Mesa to redistrict every five years as opposed to ten.

Councilmember Whalen commented that the biggest problem he foresees with redistricting is that residents who are currently located in one district and subsequently placed in another district will be represented by a new Councilmember and may potentially be unable to vote in two election cycles.

Mayor Hawker expressed opposition to redistricting more frequently than every ten years. He requested staff to conduct further research relative to whether a Councilmember could resign from one district to run in a newly formed district, and if so, whether it would retrigger the individual's term limits.

Mr. Norenberg referred to Section 201 (B) 1, which would reduce the residency requirement for Mayor from two years prior to the time of filing nomination papers to one year, and Section 201 (B) 2, which would reduce the district residency requirement for Councilmembers from two years prior to the time of filing nomination papers to require residency at the time of filing nomination papers. He explained that the change would allow citizens to become candidates in their new district, after redistricting takes place, without having to move.

Vice Mayor Kavanaugh voiced a series of concerns relative to the proposed Charter amendments. He cited, by way of example, that if the recommendations went into effect this year, with a December 5th filing deadline, a Council candidate would only have to move into his/her selected district by December 6th and be a district resident for three to four months prior to the March 2004 election.

Councilmember Walters expressed concerns that a Councilmember could represent an area of the City in which they do not reside or have resided for only a matter of months prior to an election. She added that she would prefer that the one-year residency requirement being proposed for the Mayor be a requirement for Council candidates as well. Councilmember Walters also suggested that there must be some way in which the Charter amendment language can be drafted to convey that if a Councilmember is redistricted into a new district, that it is the same thing as being annexed in.

Councilmember Jones concurred with Councilmember Walters' comments.

Mayor Hawker commented that he would leave it to the discretion of the voters to assess a candidate's ability to effectively represent the district in which he/she is a new resident.

Councilmember Thom expressed support for staff's proposed Charter amendments.

Councilmember Griswold concurred with Councilmember Walters' comments regarding the concept of redistricting being equated to annexation.

City Manager Mike Hutchinson commented that he is aware of the complexity and controversial nature of the potential changes to the City Charter and suggested that at today's meeting, the Council provide staff with input and feedback and that staff will bring back these issues for final approval at a future Study Session.

Mayor Hawker stated that with regard to Section 201 (B) 1, a majority of the Council is supportive of the proposed change. (Kavanaugh voted in opposition).

Councilmember Whalen suggested that Section 201 (B) 2 be modified to include a one-year district residency requirement for Councilmembers prior to the time of filing nomination papers and also a one-year residency requirement in the newly defined district. Councilmember Walters added that the Charter amendment should also include language addressing the redistricting issue and whether the candidate resides within new district boundaries.

Mayor Hawker stated that it is the consensus of Council that staff proceed with the proposed changes to Section 201 (B) 2, as modified.

Mr. Norenberg reported that relative to Section 209 (A), "City Council Procedure," staff's proposal is to reduce the number of required Regular Council meetings from two to one per month. He explained that this would allow for a meeting to be cancelled if there were only a few items scheduled on a particular Council agenda. Mr. Norenberg stressed, however, that it would be necessary for the Council to address Planning and Zoning cases in a timely manner that require Council action.

Mayor Hawker commented that if the Council did not have a Regular Council meeting scheduled to address the concerns of a commercial developer, and in an effort not to hinder the progress of Mesa's development community, that a Special Council meeting could be scheduled to address such issues. He also noted that he could envision up to 60 days between meetings, which would preclude citizens from addressing the Council during that interim period of time.

Councilmember Walters stated that the City conducts numerous meetings on a weekly basis and that she and her fellow Councilmembers have access to their constituents via telephone, e-mail and in-person meetings. She stated the opinion that the Council would not be "shutting its doors" to the community with the proposed change.

Mayor Hawker stated that it is the consensus of the Council that staff proceed with its recommendations with regard to Section 209 (A).

Mr. Norenberg highlighted Section 211 (B) 3, "Ordinances in General," and reported that staff is proposing minor changes to ordinances with reintroduction by inserting the word "substantive" as follows: "However, if the ordinance is amended in any substantive manner, the Council shall not adopt it until the new ordinance and its amended sections have been subjected to all the procedures required in the case of a newly introduced ordinance." He noted that this would enable the City Attorney's Office to correct minor changes such as grammatical or typographical errors.

In response to concerns expressed by Mayor Hawker, City Attorney Debbie Spinner clarified that a definition of "substantive" would not be included in the Charter and that such a definition would be determined on a case-by-case basis. She commented that if it is determined that the City provided sufficient notice to the public relative to what action the Council is taking, then it would be considered a non-substantive manner.

Vice Mayor Kavanaugh stated that he would prefer that the language in this section remain as presently written and noted that the proposed changes could create challenges for the City relative to the reintroduction of an ordinance. He also said that what is considered "substantive" by one person may be interpreted differently by another.

Mayor Hawker suggested that it may be appropriate that any "substantive" changes in an ordinance receive unanimous Council approval.

Councilmember Walters suggested that Ms. Spinner draft language in the amendment to define a "non-substantive" change.

Mr. Norenberg advised the Council that the proposed change in Section 211 (E), "Day of Publication," would add a second day of the week for publication of legal notices to provide various City divisions with greater flexibility and faster response if there are typographical errors or newspaper mistakes as opposed to waiting up to 30 days. He explained that the Charter currently allows one day a week (Saturday) for the publishing of notices.

Discussion ensued relative to the potential impact on the City due to publication errors; the procedure whereby introduced ordinances must be published; and the fact that a public hearing cannot be held less than six days after the publication of an ordinance.

Mr. Norenberg advised that with regard to Section 401 "Appointive Officers," (D) "City Magistrate," staff's proposal is to bring the Charter into conformance with State law that separates the powers of the Council from the Judiciary. The current language, "Magistrates shall serve at the pleasure of the Council," would be replaced with "The City Council shall establish fixed terms for City Magistrates by ordinance."

Mayor Hawker stated that it is the consensus of the Council that staff proceed with its recommendation relative to Section 401 (D)

Mr. Norenberg reported that in Sections 403 and 404, "Personnel System and Personnel Appeals Board," in order to reflect the current organizational job titles, Personnel Director should be changed to Human Resources Director. He added that with reference to Section 405, "Planning Department," the section should be deleted so that the Charter reflects Mesa's current organizational structure that designates Planning as a division.

Councilmember Walters requested staff to investigate whether such "cleanup" items could be handled in an alternative manner as opposed to being placed on an already crowded ballot for voter approval.

Mayor Hawker stated that it is the consensus of Council that staff proceed with its recommendations relative to Sections 403, 404 and 405.

Mr. Norenberg stated that the proposed changes to Section 501, "Boards and Commissions," would revise residency requirements to allow Council the option to appoint a non-resident to a board or commission under special circumstances. He added that it would also allow the Council to consider permitting a member who has moved outside the City to finish his or her service on a particular board or commission.

Councilmember Griswold expressed support for staff's proposal.

Mayor Hawker suggested that there should be some type of mechanism in place, such as a separate Council vote, that would be unique and distinct from the usual Council acknowledgement of his appointments to boards and commissions.

Councilmember Thom stated the opinion that the proposed changes in Section 501 are unnecessary due to the fact that the Council already has the ability to appoint non-residents to serve on various City ad hoc and task force committees for a specific purpose.

Vice Mayor Kavanaugh concurred with Councilmember Thom's comments.

Councilmember Walters noted that the proposed Charter amendment would be a compromise to the City and allow it to appoint an individual with a specific expertise to a board or committee if there were not a qualified Mesa resident available to serve in such capacity.

In response to a question from Councilmember Griswold, City Manager Mike Hutchinson clarified that the language in the proposal "under special circumstances" entails appointing a non-resident to a particular board or committee if it is in Mesa's best interest to have his or her input.

Mayor Hawker advised that because Council consensus has not been reached relative to Section 501, it will remain unchanged.

Discussion ensued relative to the potential to modify Section 501 with regard to the Judicial Advisory Board only.

Materials Management Director Sharon Seekins addressed the Council and provided a brief overview of Section 609, "Competitive Bidding and Quotations." She explained that it is staff's recommendation to redraft the entire section, including updating the existing language in a newly titled section, "Procurement," with provisions that enable the City to operate in a more business-friendly manner, utilize current technology and follow modern purchasing practices.

Ms. Seekins briefly highlighted the following changes:

Section 609 (A), "Intent:" It is the general intent that open, competitive bidding be followed in the purchase of materials, supplies, commodities, equipment, insurance and improvements (collectively the "Materials") whenever possible. The City Council shall establish by ordinance a procedure to implement this policy and may determine exceptions thereto. The City Council shall accept those bids which, under all circumstances, appear to be in the best interest of the City unless all bids be rejected.

Section 609 (B), "City Council Approved Purchases:" Procurement of Materials, when the cost will exceed \$25,000, shall be made after giving public notice, as defined in Section 609 (H), using either formal written invitation for bid (IFB), or request for proposal (RFP). The City Manager or designee shall determine which procurement method will be most practicable and advantageous to the City for the procurement of Materials.

Section 609 (C) "Small Dollar Procurement Procedure:" Procurement of Materials, when the cost will not exceed \$25,000, shall be made using small dollar purchase procedures to be developed and implemented by the City Manager or designee. For purchases of less than \$5,000, the City Manager or designee shall adopt policies and procedures to provide for efficient and cost effective purchasing practices and the maintaining of appropriate records of such purchases.

Section 609 (D) "Emergency Procurements:" Notwithstanding any other provisions of this Section, the City Manager or designee may make or authorize to make emergency procurements of Materials when there exists a threat or severe impairment to the quality of public health, welfare or safety, or if a situation exists which makes compliance with established procurement procedures impracticable, unnecessary or contrary to the public interest; provided that such emergency procurements shall be made with such competition as practicable under

the circumstances. An emergency procurement shall be limited to those Materials necessary to satisfy the emergency need. A written determination of the basis for the emergency and for the selection of the particular contractor shall be prepared and included in the purchase/contract file. Any emergency procurement exceeding the dollar limit for City Council approval shall be scheduled for review at the next reasonably available City Council meeting.

Ms. Seekins reported that the intent of Section D is to recognize that in an emergency situation when the public's health, welfare and safety is threatened, it would be appropriate for a process to be in place whereby staff, under certain direction, could be given the authority not to conduct a formal bidding process because it is time consuming, but rather, to make emergency procurements in a more prompt manner.

Section 609 (E) "Cooperative Purchasing:" The City Manager or designee shall have the authority to participate with the State of Arizona or other political subdivisions of this State, or any other State and its political subdivisions and the Federal government for the procurement of Materials in cooperative purchasing agreements independent of the requirements of this Section or other procurement procedures established by the City. A written determination of the basis for the entering into a cooperative purchasing agreement, including the necessity therefore, shall be prepared and included in the purchase/contract file. Any cooperative purchasing agreement exceeding the dollar limit for City Council approval shall be scheduled for review at the next reasonably available City Council meeting.

Section 609 (F) "One-Line Procurement." Ms. Seekins advised that this section would provide the City with the ability to take advantage of technological advances such as accepting electronically sealed bids and to have them electronically sealed and opened.

Section 609 (G) "Inflation Adjustment." Ms. Seekins reported that this section would allow the City Council, at the recommendation of the City Manager, to adjust the \$5,000 and \$25,000 limits outlined in Section 609 (C) to offset the impact of inflation.

Section 609 (H) "Public Notice." Ms. Seekins stated that this section would broaden the City's ability to use multiple types of public notice including, but not limited to, newspaper publication, electronic or paper mailing lists, and any electronic method providing widespread circulation.

Councilmember Griswold expressed appreciation to staff regarding the proposed changes/modifications to Section 609 in an effort to make Mesa a more "business friendly" community.

In response to a question from Vice Mayor Kavanaugh concerning Section G, "Inflation Adjustment," Ms. Seekins clarified that there is language in the amendment to reflect that the adjustment would be used to offset the impact of inflation. She added that there would also be a burden upon staff and the City Manager to show the Council that the proposed change is merely to offset the impact of inflation and not artificially higher than otherwise.

Councilmember Walters suggested that with regard to Section G, she would prefer that the words "increase by ordinance" be added to clarify under what circumstances the indexing of purchasing limits could be made by the Council.

Mayor Hawker requested that staff make modifications to Section G, Inflation Adjustment, as suggested by Councilmember Walters.

Mr. Norenberg explained that Section 701 (D) would change the wording “absentee voting” to “early voting” in order to conform with statutory language. He also commented that with regard to Section 903 “Charter Amendments”, (B), “Election,” the proposal is to establish an earlier timeframe for Council to submit Charter amendments (increase from 90 to 120 days) based on changes in State law requiring arguments to be filed not less than 90 days prior to an election. The modification would allow a 30-day period for comment prior to the State’s 90-day deadline.

Mayor Hawker stated that it is the consensus of the Council that staff proceed with its proposals relative to Section 701 (D) and Section 903 (B).

Mayor Hawker thanked staff for the presentation.

3. Discuss and consider continuation of Home Rule Expenditure Limit Option.

Deputy City Manager Debbi Dollar reported that in March 2000, Mesa voters approved the Home Rule Expenditure Limit Option, which was an alternative to the State’s mandated expenditure limit. She explained that per State statute, every four years the City is required to send the question back to the voters whether they wish to continue with the Home Rule Option. Ms. Dollar advised that the decision to send the question to the voters must be approved by the Council via resolution to make it eligible for the March 2004 Primary Election ballot.

Budget Director Jamie Warner addressed the Council and provided a brief overview of staff’s recommendations; expenditure limits; the City’s funding priorities; the importance of meeting future needs; possible alternatives; and the fact that should the voters fail to approve the continuation of the Home Rule Option, the question cannot be resubmitted to the voters for two years. He also noted that it is necessary that two public hearings be conducted prior to the Council taking action to place the issue on the ballot.

Discussion ensued relative to Permanent Base Adjustment; and the ability of residents to provide input concerning the City’s budget process.

Mayor Hawker stated that it is the consensus of the Council that staff draft the resolution proposing an extension of the alternative expenditure limitation (Home Rule Option) to be placed on the March 9, 2004 Primary Election ballot.

4. Appointments to boards and committees.

Mayor Hawker recommended the following appointments to Boards and Committees:

LIBRARY ADVISORY BOARD

Liz Purtell – Term Expires June 30, 2004

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that the Council concur with the Mayor's recommendation and the appointment be confirmed.

Carried unanimously.

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

The following members of the Council provided brief updates on various meetings/conferences they attended as follows:

Councilmember Thom Groundbreaking Ceremony for United Parcel Service Facility

6. Scheduling of meetings and general information.

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

Friday, October 3, 2003, 8:00 a.m. – Finance Committee Meeting

Thursday, October 9, 2003, 7:30 a.m. – Study Session

Monday, October 13, 2003, TBA – Study Session

Monday, October 13, 2003, 5:45 p.m. – Regular Council Meeting

Thursday, October 16, 2003, 7:30 a.m. – Study Session

Thursday, October 16, 2003, 9:30 a.m. – Transportation Committee Meeting

7. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

8. Items from citizens present.

Father Leonard Walker of the Queen of Peace Church and Reverend Emerito y Andrea Gonzalez, Pastor of Iglesia La Roca, addressed the Council and presented a number of petitions recently collected throughout the community indicating support for the formation of a Police Oversight Civilian Review Board. They commented that because of recent incidents involving the Mesa Police Department, it is imperative that Mesa residents' trust and confidence in the Police Department be restored in a positive manner.

9. Adjournment.

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

KENO HAWKER, 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 the 2nd day of October 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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