

FINANCE COMMITTEE MINUTES

October 18, 2004

The Finance Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on October 18, 2004 at 3:05 p.m.

COMMITTEE PRESENT	COUNCIL PRESENT	STAFF PRESENT
Tom Rawles, Chairman Janie Thom Claudia Walters	None	Debbie Spinner Debra Dollar

Chairman Rawles excused Committeemember Thom from the beginning of the meeting. She arrived at 3:18 p.m.

1. Discuss and consider changes to the City of Mesa's Massage Therapy Ordinance.

Assistant Financial Services Manager Jenny Sheppard introduced Assistant City Attorney Alfred Smith and Tax and Licensing Supervisor Lani Britain.

Ms. Shepard suggested, and Chairman Rawles concurred, that only those changes made since the August 18th Study Session would be discussed.

Chairman Rawles stated that language regarding a discretionary and a mandatory denial for the same action has been clarified. He added that the "gross negligence" language has also been clarified in an appropriate manner. Chairman Rawles complimented staff for doing an excellent job in addressing the issues, and he added that as a result the Committee would not have to devote a significant amount of time to discussion of the details.

Committeemember Walters noted that certain terms, such as "mandatory inspection," have been removed. She noted that the changes are bringing the ordinance into compliance with State regulations.

Chairman Rawles expressed approval for eliminating the requirement that massage establishments provide home phone numbers and addresses for former employees. He referred to the language in the draft ordinance (a copy is available for review in the City Clerk's Office) on page 6, Section D, in reference to criminal offenses, and noted that both felony and misdemeanor charges were required to involve prostitution, indecent exposure, or pornography. Chairman Rawles recommended removing the commas after "felony" and "misdemeanor" in order to clarify the intent.

Mr. Smith concurred with Chairman Rawles' recommendation.

Committeemember Walters also referred to Section D and stated that a comma is not required after the term "applicants."

Chairman Rawles advised that the language on page 6, Section D, also appears on page 12, Section B.1, and that the same changes should be made. He also noted that Section B.2 on page 12 should clarify that the licensee's knowledge should be limited to only their massage establishment.

Committeemember Walters requested that staff provide both the edited version and the final revised copy when the ordinance is presented for Council consideration.

It was moved by Committeemember Walters, seconded by Chairman Rawles, that the revised ordinance be moved forward for Council consideration with a recommendation for approval.

Upon tabulation of votes, it showed:

AYES - Rawles-Walters
NAYS - None
ABSENT - Thom

Chairman Rawles declared the motion carried unanimously by those present.

Chairman Rawles expressed appreciation to staff for their efforts regarding the changes to the Massage Therapist and Establishment Ordinance.

2. Discuss and consider repeal of the going out of business license requirement and repeal of the requirement to obtain a permit for the sale of jewelry at an auction.

It was moved by Committeemember Walters, seconded by Chairman Rawles, that repeal of Title 5, Chapter 4, Sale of Jewelry at Public Auction, and Title 5, Chapter 5, Going out of Business Sales, of the Mesa City Code be moved forward for Council consideration with a recommendation for approval.

Upon tabulation of votes, it showed:

AYES - Rawles-Walters
NAYS - None
ABSENT - Thom

Chairman Rawles declared the motion carried unanimously by those present.

3. Discuss and consider recommended fees and charges for the new Mesa Arts Center.

Deputy City Manager Debra Dollar noted that fees and charges are normally brought before the Finance Committee in conjunction with the budget cycle, but the subject fees are being brought forward for consideration at this time in anticipation of the opening of the new Mesa Arts Center.

Arts and Cultural Director Gerry Fathauer introduced Arts Administrator Rob Schultz, and advised that Performing Arts Administrator Randy Vogel would arrive shortly. She stated that the Committee Report includes background information and comparisons with other venues, and that staff is in the process of formulating a business plan.

In response to a question from Ms. Fathauer, Committeemember Walters stated a preference for the Committee's discussion to address the philosophical issues rather than addressing specific rental rates. She noted that the background material indicates that staff has reviewed comparison data in detail.

Ms. Fathauer advised that Stageworks is the new name for the youth theater. She noted that historically the Council has recommended that youth programming be "accessible," which means that the ticket prices should be affordable for families. Ms. Fathauer added that a program called "performing live" will be based in the three larger theaters, and staff anticipates that these programs will pay for themselves or possibly generate some net income. She advised that the revenue projection for next year is approximately \$4 million against a budget of \$8.7 million.

Ms. Fathauer noted that Mesa's "affiliate program" was mentioned in Sunday's Arts and Entertainment section of the Arizona Republic. She advised that designation as an "affiliate" could be attained by approximately ten Mesa-based organizations that produce or perform for an audience if they are judged by the Museum and Cultural Advisory Board to meet specific criteria. Ms. Fathauer stated that groups accepted into the "affiliate program" would be granted a lower rental rate for each of the theaters, and that the rate would increase by five percent in each of the next five years. She added that the "affiliate" rate would always be less than the rate charged for non-profit organizations.

Ms. Fathauer stated that changes, including the addition of a facility restoration fee, have been made to the October 8th Committee Report, and revised copies dated October 14, 2004 (a copy is available for review in the City Clerk's Office) were distributed to each Committeemember.

Referring to the last page of the Committee Report, Ms. Fathauer stated that the "Members Circle" program is typical of programs offered by similar facilities.

In response to Committeemember Walters' recollection that problems experienced with the Centennial Center resulted from the fact that no funds were set aside for replacement of equipment and upgrades, Mr. Vogel confirmed that the proposed facility restoration fee addresses that need for the Mesa Art Center. He also advised that the fees collected would be placed in a dedicated fund account.

Committeemember Walters stated that she would like benchmarking and performance measurements built into the business plan that would enable comparisons to other public and private sector entities.

Committeemember Thom questioned the rental rates for the Farnsworth Theater, and asked whether the rates would generate use of the theater or act as a deterrent.

Ms. Fathauer noted that staff made an effort to maintain affordable rates for potential users while ensuring that the Center received an appropriate cost recovery.

Event Services Supervisor Kristy Dewald advised that comparable facilities were difficult to locate nationwide, but she utilized regional facilities such as the Chandler Center for the Arts, the Orpheum Theater, and the Scottsdale Center for the Arts as the basis for the research. She expressed the opinion that the Mesa Art Center's rates were competitive with other Valley facilities.

Committeemember Walters referred to Exhibit 4 (see Attachment 1, page 2 of 4) and expressed concern that the rates inclusive of fees for house staff (facility, security, box office, etc.) appear to be higher than the rates of competing facilities.

Mr. Vogel stated that users are aware of the total costs during negotiations. He also noted that the placement of four theaters in one area of the Art Center makes it difficult to assign a certain percentage of the activities to a specific production.

In response to a question from Chairman Rawles regarding comparisons with private theaters such as the Dodge Theater, Ms. Dewald noted that the Dodge Theater is a 5,000-seat venue that offers different types of performances.

Mr. Vogel referred to the "Totals" line of Exhibits 3 through 6 (see Attachment 1, pages 1 - 4) that list a dollar rental amount "vs. 5%." He explained that a majority of venues calculate rental rates in this manner and that the more successful ticket sales are, the more revenue will be generated.

In response to a question from Committeemember Thom, Ms. Dewald stated that no comparison was made to the Hale Centre Theatre in Gilbert.

Ms. Thom noted that the Hale Centre Theatre is privately owned and the owners have 60 years of experience. She requested that staff contact this venue for additional information.

Chairman Rawles expressed support for the facility restoration fee, and he requested that Ms. Spinner verify that the fees could be placed in a dedicated account. He added that the Art Center is a unique operation, and that the Committee relies on the expertise of staff in many of the areas.

It was moved by Chairman Rawles, seconded by Committeemember Walters, that the proposed Mesa Art Center fees, as listed in the October 14, 2004, Committee Report, be moved forward for Council consideration with a recommendation for approval.

Carried unanimously.

Chairman Rawles thanked staff for their presentation.

4. Discuss and consider issues related to implementation of utility rate adjustments.

Chairman Rawles stated that the City Attorney's Office provided an opinion that the City's current billing practice is the conventional industry method, and that the Council could continue

utilizing this method. He stated that the Committee should consider the following questions during the discussion:

- What should be done immediately in terms of the proposal that was tabled at the last Council meeting?
- What is the policy for future Utility rate increases?
- What should be done about the 2004 utility rate increases?

Assistant Financial Services Director Jenny Sheppard introduced Customer Service Administrator Ken Langford. She noted that three common billing practices exist in the industry that can be used for implementing rate increases:

1. The "current rate" is the most common and the simplest method, and the City has utilized this method for more than 20 years. Usage billed on August 1st for the prior period was billed at the new rate. Ms. Sheppard noted that all municipalities, except Chandler, utilize this method.
2. The "mid-period billing rule" utilizes a form of proration to implement a rate increase. This alternative is complicated by the fact that the City provides metered and unmetered services. Ms. Sheppard noted that this policy could require several months of evaluation and testing of program changes to the billing system.
3. The "beginning of the billing period" rule bills customers for prior usage at the old rate and at the new rate beginning on the effective date of the rate increase. This approach would also require extensive testing of the system.

Mr. Langford explained that the issues being discussed are very complex, and he directed the Committee's attention to the second paragraph on page 2 of the Council Report that reads as follows:

Proration of service charges is a complex practice that is further complicated by the fact that Mesa has seven utility services (both unmetered and metered) with different rate structures. A proration policy affects price changes, but also seasonal rates, cost adjustment factors (gas & electric service), BOD (biochemical oxygen demand) and SS (suspended solids) components for industrial wastewater, the commercial surcharge for water, rate-steps, and history-based charges (winter water averages) for wastewater and water services.

In response to a question from Chairman Rawles, Mr. Langford stated that he could not assure the Committee that the same technical problems would not be encountered with the "beginning of the billing period" rule. He advised that staff would want to test any change made to the process. Mr. Langford noted that approximately 950 rates exist in the system.

Committeemember Walters questioned why utilizing the "beginning of the billing period" would be more complicated than the present system.

Mr. Langford responded that the "beginning of the billing period" should not be more complicated, but staff would like to be sure that no problems exist prior to making any commitments to the Council.

Committeemember Walters noted that there would be a one-year transition phase, and that staff could back up the notification because the State has not designated a specific date for adoption. She added that the process could begin in April to implement an August increase.

Mr. Langford expressed agreement with Committeemember Walters' assessment, but he noted that staff would prefer to test the program to ensure a smooth operation.

Committeemember Walters stated that the notice to utility customers appeared to be inadequate due to the fact that the increase actually became effective a month earlier than anticipated based on the dates approved by Council.

Chairman Rawles concurred with the statements of Committeemember Walters, but he also agreed that staff's concern was valid relative to testing the system. He noted that under the present system a customer with a meter read on July 2 and August 2 would pay the higher rate from July 3rd forward, which was only 12 days from the June 21st Council action.

Financial Services Manager Bryan Raines noted that an attempt is made to coincide rate adjustments with the budget process. He advised that if the rate increases were backed up into March or April, the Council would discuss utility rates prior to considering other budget-related issues.

Chairman Rawles expressed the opinion that the rate increases should continue to be tied to the budget discussion, and that future revenue projections should be reduced as a result of implementing the "beginning of the billing period" rule.

Committeemember Thom stated the opinion that the "beginning of the billing cycle" was the best alternative.

In response to Chairman Rawles' question relative to applying the "beginning of the billing period" rule to the proposed ordinance for the Industrial Wastewater account, Mr. Langford requested that staff be given 30 days to test the process.

Responding to City Attorney Debbie Spinner's comment that the ordinance would have to be reintroduced, Chairman Rawles noted that only the resolution contains language changes.

Mr. Langford added that he has been in contact with Industrial Wastewater, and they are aware that the rate adjustment is forthcoming.

In response to Committeemember Walters' question regarding the effective date for Industrial Wastewater's new rate according to the introduced ordinance and resolution, Ms. Spinner advised that the effective date is 30 days following adoption by the Council.

Committeemember Walters noted that Industrial Wastewater was not charged the new rate in August, September or October and that the increase continues to be delayed. She expressed the opinion that this user has not been negatively impacted, that substantial notice has been

given, and that a benefit has been provided as a result of the City's error. She stated a preference to consider implementing the "beginning of the billing period" rule in the future rather than on a retroactive basis, which would provide Mr. Langford and his staff sufficient time to test changes to the billing system.

Chairman Rawles expressed concurrence with Committeemember Walters' comments regarding the pending ordinance, and he stated that the ordinance and resolution should be considered in its current form. He also expressed support for a Committee recommendation to the Council that the "beginning of the billing period" rule be adopted for future rate increases, subject to testing and verification of the billing system. Chairman Rawles noted that neither the Committee nor the Council is required to make a policy decision today. He also advised that a number of people have contacted him regarding the August 1st effective date, and he expressed the opinion that the standard industry practice could be incorrect. Chairman Rawles stated that he did not believe the misrepresentation regarding the effective date was intentional, and he noted that the City had a long history of utilizing this method of billing. He suggested that staff research the average increase for those customers billed for the rate increase in the period prior to August 1st. Chairman Rawles clarified that he was not requesting that staff review 150,000 individual bills, but he suggested that the City consider issuing a rebate of \$3 to the appropriate customers. He added that he did not want to go back 25 years, but he noted that the City is still in the current fiscal year. Chairman Rawles recognized that the process would impose a financial hardship on the City, but he expressed the opinion that a rebate to customers would be appropriate.

Committeemember Walters agreed that the City did not intend to misrepresent the effective date of the rate increase, but she noted that the Council did intend to obtain the financial result, and that the City's budget was based on the Finance Department's understanding of the anticipated revenues. She recommended that the City move forward to adopt the "beginning of the billing period" rule for future rate increases, which would allow staff sufficient time to implement testing, make necessary changes, and evaluate the impact of the transition. Committeemember Walters expressed the opinion that implementing the change retroactively would not be helpful to the City.

Ms. Spinner alerted the Committee to a potential issue regarding the adoption of the "beginning of the billing period" rule. She explained that the Council would have to consider a refund to other customers if the method was applied to the industrial user in the current year. Ms. Spinner stated that the action would result in an inconsistency in the application of the rate increase. She advised the City is required to be consistent in the application of the rate increase by utilizing the same method for all customers.

In response to Chairman Rawles' proposal to reduce each customer's bill by \$3, Ms. Sheppard advised that the Customer Information System does not presently have a rebate feature. She stated that code and programming changes would be required from the vendor, followed by testing of the program prior to implementing a rebate program. Ms. Sheppard added that the cost to implement this change would be at least \$3 per account, plus an additional \$10 to process the rebate. She noted that this figure does not include the cost of staff time and programming changes.

Chairman Rawles stated that he would make the motions to address these issues.

It was moved by Chairman Rawles, seconded by Committeemember Walters, that the existing resolution and ordinance regarding the Industrial Wastewater account rates, be resubmitted to the Council with a recommendation for approval.

Carried unanimously.

It was moved by Chairman Rawles, seconded by Committeemember Walters, that the "beginning of the billing period rule" for future rate increases be forwarded to the Council with a recommendation for approval, subject to receipt within the next six months of a staff report regarding testing and verification of the impact on the billing system.

Carried unanimously.

Chairman Rawles stated, and Committeemembers Thom and Walters concurred, that the Committee is requesting that staff provide additional information regarding the legal implications, the complications and the costs involved in implementing a rebate to customers in the current year.

5. Adjournment.

Without objection, the Finance Committee Meeting adjourned at 4:02 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Finance Committee meeting of the City of Mesa, Arizona, held on the 18th day of October 2004. 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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Attachment 1