

# COUNCIL MINUTES

January 13, 2005

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 13, 2005 at 7:45 a.m.

## COUNCIL PRESENT

Mayor Keno Hawker  
Rex Griswold  
Kyle Jones  
Tom Rawles  
Janie Thom  
Claudia Walters  
Mike Whalen

## COUNCIL ABSENT

None

## OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

1. Review items on the agenda for the January 18, 2005 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: 3c (Griswold); 4c, 4d, 4f, 4h (Hawker); 6g (Whalen)

Items removed from the consent agenda: 4g, 6a, 6b, 6e,

Items added to the consent agenda: None

2. Hear a presentation, discuss and consider proceeding with the design phase of the Va Shly'ay Akimel Salt River Ecosystem Restoration Project.

Councilmember Rawles declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

Assistant to the City Manager Jim Huling stated that staff was present to update the Council regarding the Va Shly'ay Akimel project and to request Council authorization for staff to proceed with negotiations with the Salt River Pima-Maricopa Indian Community (SRPMIC) and the United States Army Corps of Engineers (USACE) relative to the development of a design agreement. He explained that the design agreement would then be brought forward for Council approval, after which the project could advance to the Preconstruction Engineering and Design (PED) phase. Mr. Huling introduced Senior Civil Engineer Gordon Haws and representatives of the USACE, Mike Ternack and Kathy Bergmann.

Mr. Haws utilized a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to provide an update on the project. He reviewed the history of the project and the objectives of the feasibility study. Mr. Haws advised that the benefits and impacts of restoration are measured in "Functional Capacity Units" (FCU's), and that restoration would increase the Salt River's existing 812 FCU's to 1006 FCU's. He noted that the plan includes 883 acres of cottonwood/willow trees, 380 acres of mesquite trees, 200 acres of wetlands, 24 acres of Sonoran Desert scrub shrub vegetation, in addition to providing approximately five miles of maintained multi-use trails. Mr. Haws added that SRPMIC would provide 17,100 acre-feet of water annually, which has an estimated annual value of \$1,283,000.

Mr. Huling continued the presentation and advised that Jacob Moore and Bob Ramirez, representatives of the Indian Community, were also present and could address questions regarding the SRPMIC's participation. He noted that the trail system was the result of compromise between the City's preference for a more highly developed trail system and the Indian Community's desire to minimize incursion into tribal lands. Mr. Huling stated that Federal government funding would provide 75 percent of the preconstruction engineering and design costs, 65 percent of the non-recreation construction costs, 50 percent of the recreation construction costs and none of the Operations and Maintenance (O&M) expense. He outlined the contributions made to date by the City of Mesa and the Indian Community. Mr. Huling explained that in order to move forward, the City of Mesa and the SRPMIC would equally share the remaining 25 percent of the design costs totaling \$1.25 million, or \$625,000 each over a period of three years. He advised that the Maricopa County Flood Control District (MCFCD) has agreed to contribute \$100,000 toward the City's obligation, reducing the City's share to \$525,000. Mr. Huling added that additional funds may be forthcoming from MCFCD, and that the amounts would be credited equally to the City and to SRPMIC. He summarized the presentation by reviewing the project milestones, and he noted that staff recommends that the City move forward to negotiate a design agreement.

City Manager Mike Hutchinson advised that the long-term project is very important to the community. He thanked the representatives of the SRPMIC and the USACE for their efforts.

Mr. Huling clarified that the Council's authorization to negotiate a design agreement would not commit either the City or the SRPMIC to proceed with construction.

Mayor Hawker noted that this project has evolved over a long period of time, and he expressed appreciation for the efforts of the SRPMIC. He added that the SRPMIC would have responsibility for the majority of the decisions due to the fact that the project is primarily located on tribal land. Mayor Hawker noted that this effort is simply a continuation of other cooperative efforts between the City and the SRPMIC, and he indicated support for moving forward with the design phase. He added that this project would be ongoing for a period of 25 years.

Vice Mayor Walters expressed support for both the project and the partnership with the SRPMIC.

It was moved by Mayor Hawker, seconded by Vice Mayor Walters, that staff be authorized to move forward with negotiations relative to the Va Shly'ay Akimel project design agreement.

In response to a question from Councilmember Griswold, Mr. Haws advised that the source of the water contribution by the Indian Community is water rights that are not presently being utilized.

In response to a question from Councilmember Thom, Mr. Ternack of the USACE advised that mining activities were taken into consideration when plans for the restoration project were implemented. He added that certain locations where active mining would continue or where future mining activity is projected were avoided. Mr. Ternack noted that the project is planned in phases, and that agreement exists that once an area has been restored, no future mining activity would occur in the area. He also confirmed that the State of Arizona has received information and periodic updates regarding the project.

Councilmember Thom noted that the District 19 State Representative, Chuck Gray, Chairman of the State's Natural Resources Committee, was in the audience, and she stated that she would like the opportunity to ask him a question.

Mayor Hawker acknowledged Representative Gray and asked him to come forward.

In response to a question from Councilmember Thom, Representative Gray advised that Mr. Huling provided him with information on the project approximately six months ago. He noted that this is a City of Mesa project and that technically the State would not be directly involved. Mr. Gray added that he did not anticipate that State funding would be forthcoming relative to this project.

Responding to questions from Mayor Hawker, Representative Gray stated that in his position as a State Legislator, he had no involvement in similar projects such as Tres Rios or Tempe Town Lake. He added that the project being discussed is of a local nature, and that his personal interest was as a resident of the City of Mesa.

Councilmember Thom noted that Russell Bowers, Executive Director of the Arizona Rock Products Association, was present in the audience, and she suggested that he address the Council relative to the mining issue.

Mayor Hawker expressed concern that certain individuals are being invited to speak, and he noted that this agenda item was not posted for public comment. He requested clarification from the City Attorney relative to the legality of allowing selected individuals to address the Council.

Mr. Hutchinson advised that the issue presently before the Council is to authorize staff to move forward to develop a formal design agreement, which would then require Council approval at a future Council meeting.

Mayor Hawker added that Council approval of staff's recommendation would enable members of the public to address the issue at a future date when the agreement is presented for Council approval.

City Attorney Debbie Spinner confirmed that the action before the Council is to provide direction to staff relative to moving forward to develop a design agreement.

Councilmember Thom requested that staff obtain data from the aggregate industry and the SRPMIC relative to the economic impact of this project.

Mr. Huling advised that Mr. Bowers has received copies of the preliminary reports, and he noted that staff and the USACE are willing to provide additional information as may be requested.

Councilmember Thom stated that she would like to receive information regarding the economic impact of the project on the Indian Community.

Mayor Hawker commented that if the SRPMIC believed that the project would result in a negative economic impact on their community, they would not enter into the agreement. He added that the land belongs to the Indian Community, and he stated that the SRPMIC is the primary decision maker in the process.

Vice Mayor Walters expressed the opinion that the Council could appropriately question the project's economic impact on the State's sand and gravel industry, but she added that it was inappropriate for the Mesa City Council to question the decisions of a sovereign nation, the SRPMIC.

In response to a question from Councilmember Whalen regarding the location of the Johnson Stewart land, and whether absolute boundaries exist between tribal and private lands, Mr. Haws advised that two percent of the project land is either in an unincorporated County area or is land that the City of Mesa owns, and that a portion of the two percent does include some land owned by the Johnson Stewart Company. He added that as the design process moves forward, discussions will be held with property owners, and if negotiations to acquire certain properties fail, the project would be modified accordingly.

Councilmember Whalen expressed the opinion that discussions with property owners, such as the Johnson Stewart Company, should be conducted early in the process in an effort to secure their cooperation.

Councilmember Thom stated opposition to the motion due to the fact that insufficient information has been provided regarding the project's economic impact on the community.

Councilmember Griswold noted that the action before the Council authorizes staff to gather additional information, but there is no authorization for the expenditure of funds.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Walters-Whalen  
NAYS - Thom  
ABSTAIN - Rawles

Mayor Hawker declared the motion carried by majority vote.

Mayor Hawker thanked staff and the USACE representatives for the presentation.

3. Hear an update, discuss and consider the proposed Indoor Aquatics Center, the Quality of Life Program and potential alternatives for serving the aquatic needs of the community.

Vice Mayor Walters advised that she would have a potential conflict of interest relative to a discussion of a Mesa Public Schools' site, but she is free to discuss those areas that do not involve the schools. She stated that she would declare a potential conflict when appropriate.

City Attorney Debbie Spinner concurred that a discussion of the proposed Indoor Aquatics Center would not pose a potential conflict of interest for Vice Mayor Walters.

Community Services Manager Joe Holmwood noted that the Quality of Life Program, approved by the voters in 1998, included an allocation of revenues to construct an Indoor Aquatic Center. He explained that as a result of the construction bid being \$6 million higher than anticipated, the project was put on hold until additional funding sources could be identified.

Financial Services Manager Bryan Raines provided an update on the Quality of Life Sales Tax Program and a projection of revenues and expenses (see Attachment 1) for the program years 11 through 20 (Fiscal Years 2009/10 through 2017/18). He noted that sales tax revenues were lower than expected in the post 9-11 years. He summarized the programs and services that have been funded by the Quality of Life tax revenue, including additional police officers and firefighters, increased library hours, added bus pull-outs, swimming pools, etc. Mr. Raines noted that \$25.1 million remains in the Quality of Life fund designated for an aquatics facility expenses, and that these funds are not restricted to a specific type of facility.

Councilmember Jones commented that when the Quality of Life tax was implemented, the City had experienced robust growth in revenues and the revenue projections were calculated in a conservative manner.

Mr. Raines confirmed that the original projection of revenues has been reduced by almost one-third due to the changes in economic conditions, which included the sluggish economy in 2000, the impact of 9-11 and the loss of food sales tax revenues. He also confirmed that capital allocations for the Police and Fire Departments have been fully funded.

In response to a question from Councilmember Rawles, Mr. Raines clarified that the \$25.1 million earmarked for aquatic projects is not included in the ending fund balance.

Mr. Holmwood advised that staff's recommendation for utilization of the \$25.1 million is based on the community's interest to address the "aquatic" component of the Quality of Life tax, which includes the following:

- Construct an outdoor pool that is designed for competitive use.
- Implement major renovations of five of the oldest pools.
- Construct a new aquatics facility at Smith Junior High School.

Mr. Holmwood noted that the Council Report lists several possible sites for a new outdoor competitive aquatic center and identifies five pools for possible renovation. He estimated that the economic impact of an outdoor competitive facility would be half of the original projection for an indoor facility, or approximately \$5 million annually.

Mayor Hawker advised that the choice before the Council is whether to continue with plans to build the Indoor Aquatic Center at the downtown site, or to consider the alternative proposed by staff. He noted that the market dynamics have changed relative to an indoor facility as a result of the current trend to build portable pools inside other venues, which can be dismantled and moved to different locations. Mayor Hawker requested that the Council approach the discussion relative to the concept rather than addressing a preference for a specific pool or location.

Councilmember Rawles stated the opinion that the \$25.1 million should be utilized to address public safety issues, such as future requirements for police facilities or the proposed courthouse, both of which would be an appropriate use of Quality of Life funds.

In response to a question from Mayor Hawker regarding the possible limitations of the ballot language, Ms. Spinner stated that she would like to review the propositions. She noted that generally the Quality of Life funds must be utilized for the health, safety and quality of life for the citizens of Mesa.

Vice Mayor Walters noted that the ballot specifically addresses aquatic and recreational facilities. She concurred with earlier comments that an indoor facility would no longer be feasible, but she expressed the opinion that an outdoor facility would generate a positive economic impact on the community. Vice Mayor Walters stated that she also considers public safety to be a priority, but that the Council was required to balance many needs that exist within the community.

Responding to a question from Vice Mayor Walters relative to restrictions imposed by Proposition 104, Ms. Spinner noted that the terms in Proposition 104 are not specifically defined, which could result in a court challenge. She expressed the opinion that an indoor aquatics facility could be defined as a multi-purpose sports complex that would require a public vote. Ms. Spinner explained that the language regarding the Quality of Life tax specifically endorses the construction of neighborhood pools, but she added that construction costs in excess of \$1.5 million could trigger the necessity for a public vote. She added that an outdoor competitive pool complex could also require a public vote. Ms. Spinner also stated the opinion that Proposition 104 does not prohibit maintaining or renovating existing swimming pools.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that the item be referred to the Parks and Recreation Board for additional input.

Mr. Hutchinson noted that when further input is received from the Parks and Recreation Board, the item would be placed on a future Study Session agenda for further discussion. He added that the City continues their efforts to obtain funds from the Tourism and Sports Authority for an outdoor competitive swimming facility due to the regional benefits of the facility.

Councilmember Whalen expressed the opinion that the economic impact of a competitive swimming facility is important to the community. He recommended that the City request that the Convention and Visitors' Bureau prepare a study to determine the economic benefits of an outdoor competitive facility.

In response to a question from Councilmember Thom as to whether an outdoor facility could be constructed in a manner that would allow for future conversion to an indoor facility, Mr. Holmwood advised that the approach would have to be investigated by the engineers and architects.

Responding to comments by Councilmember Thom, Mr. Holmwood noted that discussions have been held with school officials relative to the possibility of moving the Carson pool to a northern location on school property. Mr. Holmwood stated that the remaining four pools require major renovations.

Councilmember Thom stated that substantial renovations were recently completed on the Taylor pool, and she questioned whether these renovations would be discarded. She expressed the opinion that staff submitted “rebuild” costs rather than “renovation” costs, and she requested that staff provide to the Council costs that would reflect only renovations.

Mr. Holmwood advised that the costs submitted are based on recent pool construction in the Valley. He also explained that the lower operating expense for existing pools reflects the fact that dollars are already associated with the existing pools, and that the higher expenses for a new pool reflects the total operating expenses.

Discussion ensued relative to the fact that the pool projects would be phased in over a period of five years; that the Taylor pool mentioned by Councilmember Thom could require significant renovations in five years; that new regulations for high school swimming meets would prohibit use for a high school swim meet; that the competitive pool needs to be built; and that a portable competitive pool could reasonably be built in another venue.

Mayor Hawker expressed the opinion that the cost of the indoor competitive swimming complex has increased to a point where the project is no longer feasible, and that the City should seek alternative projects that could be funded with the Quality of Life sales tax.

Vice Mayor Walters offered an amendment to her motion, which was accepted by the second, to include the provision that plans to construct an indoor aquatic facility are to be abandoned, but that plans for a outdoor competitive aquatic facility that includes a therapeutic component would continue.

Councilmember Rawles stated that he concurred with the decision to abandon the plan to construct an indoor facility. He also indicated a preference to address public safety issues as the funding priority and then seek alternative revenue sources to fund pool renovations.

Mayor Hawker noted that the Parks and Recreation Board would be informed relative to the Council discussion of this issue.

Mayor Hawker called for the vote on the amended motion.

Carried unanimously.

Mayor Hawker thanked staff for the presentation.

4. Hear a presentation and provide direction on the proposed 91<sup>st</sup> Avenue Wastewater Treatment Plant – Digester Gas Scrubbing Project.

Utilities Manager Dave Plumb utilized a PowerPoint presentation (a copy is available for review in the City Clerk’s Office) to explain the Digester Gas Scrubbing Project. He noted that gases, a byproduct of the wastewater treatment process, are released, or in the case of the 91<sup>st</sup> Avenue Plant, the gases are burned, which has air quality implications. Mr. Plumb advised that the price of gas and improved equipment enabled the City to consider ways to reuse this resource. He reviewed the options available and outlined the option selected by staff, which is to scrub and deliver digester gas utilizing an El Paso Natural Gas Pipeline (EPNG) to Arizona Public Service Company (APS), which provides a supply of natural gas for utilization by APS in its electric generation facilities. He advised that this option was selected primarily because it provides

higher levels of technical and economic feasibility as well as an opportunity to reduce emissions at the 91<sup>st</sup> Avenue Wastewater Treatment Plant.

Mr. Plumb reported that several agreements were required, including an Intergovernmental Agreement (IGA) with the Sub-regional Operating Group (SROG) with the City of Phoenix serving as the agent, which allows the City of Mesa to develop the project. He advised that a second agreement is a lease for the actual footprint of the facility, and the final agreement is a license to utilize the gas pipeline owned by SROG, which connects to the EPGN pipeline. Mr. Plumb noted that the Council Report outlines the details of the agreements with the City of Phoenix, EPNG, the Digester Plan Development Corporation (DPDC), the Digester Plan Financial Corporation (DPFC), and the Trane Company.

Discussion ensued relative to the fact that SROG requested the City of Mesa's continued involvement in the project because of the City's gas industry expertise; that the agreement will be brought forward for Council approval on January 18<sup>th</sup>; and that having a signed agreement by January 31<sup>st</sup> will insure that the City is able to move forward on the project.

Mr. Plumb noted that failure to execute an agreement by January 31<sup>st</sup> would require the City to compete for the business as a participant in a Request for Proposals process.

Responding to a question from Councilmember Rawles, Mr. Plumb advised that the estimated cost to construct the plant is \$9 million, and he added that the Trane Company is reviewing these figures.

Councilmember Thom complimented Mr. Plumb and his staff for their efforts.

Mayor Hawker noted that the agreements relative to this item would be presented for Council consideration at the January 18th meeting. He thanked staff for the presentation.

5. Discuss and consider a proposed ordinance authorizing a monthly communications allowance for the Mayor and City Councilmembers.

Mr. Hutchinson noted that in an effort to address changes in technology, the proposed ordinance authorizes an \$80 per month communications allowance for the Mayor and Councilmembers. He explained that enabling the Mayor and Council to utilize current technology would improve their accessibility to staff and members of the public.

Responding to a question from Vice Mayor Walters, Ms. Spinner advised that the ordinance could be changed to read that the Mayor and Council will be provided "an allowance up to \$80 per month."

Vice Mayor Walters requested that staff provide information regarding the cost to process a monthly expense submittal for an amount less than \$80. She noted that accepting the \$80 allowance could be the most cost effective method to address these costs.

Discussion ensued relative to the fact that the \$80 communications allowance would be taxable; and that technology has created an expectation on the part of the public that their concerns will be addressed promptly.

In response to questions regarding public records, Ms. Spinner advised that all records for a cell phone provided by the City are discoverable as a matter of public record; that private calls on a Councilmember's personal cell phone would be redacted if a public records request was received; and that City business conducted from a personal computer at home that has access to the City's computer system would be considered a matter of public record.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that staff be directed to draft an ordinance for Council consideration that authorizes a monthly communications allowance for the Mayor and City Councilmembers.

Carried unanimously.

6. Acknowledge receipt of minutes of boards and committees.

- a. Judicial Advisory Board meeting held October 6, 2004.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

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

Councilmember Griswold: Falcon Field Business Owners' Meeting.  
Financing the Future Committee Meeting.  
Madrid Homeowners' Association Meeting.  
Citrus Neighborhood Meeting.  
Ad Hoc Redevelopment Advisory Committee Meeting.  
Tonto National Forest Meeting.  
Tour of the Homeless Center.

Vice Mayor Walters: East Valley Partnership Economic Development Program.

8. Scheduling of meetings and general information.

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

Tuesday, January 18, 2005, TBA – Study Session

Tuesday, January 18, 2005, 5:45 p.m. – Regular Council Meeting

Thursday, January 20, 2005, 7:30 a.m. – Study Session

Thursday, January 20, 2005, 9:30 a.m. – Fire Committee

Thursday, January 27, 2005, 7:30 a.m. – Study Session

9. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

10. Items from citizens present.

Sheila Mitton, 1615 W. Pueblo Avenue, expressed appreciation to the Council for establishing a date for the Special Election, and she also expressed her support for the Riverview Project.

11. Adjournment.

Without objection, the Study Session adjourned at 10:33 a.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 13<sup>th</sup> day of January 2005. 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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Attachment