



COUNCIL MINUTES

October 30, 2008

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 30, 2008 at 7:30 a.m.

COUNCIL PRESENT

Mayor Scott Smith
Alex Finter
Dina Higgins
Kyle Jones
Dave Richins
Scott Somers

COUNCIL ABSENT

Dennis Kavanaugh

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

Mayor Smith excused Councilmember Kavanaugh from the entire meeting.

1. Review items on the agenda for the November 3, 2008 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: None

Items added to the consent agenda: None

Items removed from the agenda: None

2. Hear a presentation, discuss and provide direction on the Neighborhood Stabilization Program.

Neighborhood Services Director Ray Villa and Housing and Revitalization Director Carolyn Olson came forward to address the Council.

Mr. Villa displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to provide an overview of the Neighborhood Stabilization Program, which was created to assist state and local governments in addressing the problems created by an increasing number of abandoned and foreclosed properties. He reported that the City of Mesa is receiving a special allocation of CDBG (Community Development Block Grant) funds totaling \$9,659,865 for the Program.

Mr. Villa stated that pursuant to previous Council direction, the City's funding will focus on areas in and around the 85204 zip code area. He said that the City plans to partner with non-profit agencies to achieve the goal of creating permanent and sustainable housing in the area. He

advised that a number of non-profit agencies responded to the RFP (Request for Proposals), and he added that staff would meet with these agencies to review their applications.

Responding to a question from Councilmember Higgins, Mr. Villa advised that although “permanent and sustainable housing” is the primary goal, it is not the only goal.

Mayor Smith noted that the previous Council discussion of this program emphasized that the funds should be expended in a manner that does not create on-going funding needs in the future.

City Manager Christopher Brady advised that the program area already has a large amount of transitional housing, and he explained that the Neighborhood Stabilization Program is an attempt to attract long-term residents who will invest in the community. He added that the goal is to target a group of properties in the same neighborhood in order to create a stable area.

Mr. Villa reviewed the timeline, which includes a public notice process and presentations to Council on November 6th and 20th, and he stated that staff plans to submit the Action Plan Amendment to HUD (Department of Housing and Urban Development) on November 24th.

In response to a question from Councilmember Richins, Mr. Brady advised that although the focus of the program is the 85204 area, properties in other areas of the City would also be addressed.

Mr. Villa stated that a team is being formed to periodically review the progress of the program to ensure that the stated goals are achieved.

Responding to a question from Councilmember Higgins, Ms. Olson outlined the typical process; i.e., a non-profit agency utilizes their funds to purchase a property for rehabilitation, after which the City reviews the receipts and reimburses the agency. She stated that the City then submits the receipts to HUD for reimbursement.

Mr. Brady confirmed that the City does reimburse eligible costs to the non-profit agency prior to receiving funding from the Federal government.

Councilmember Richins noted the importance of non-profit agencies being well-funded so that they have the financial capacity and access to capital in order to implement these types of projects. He stated that Mesa’s non-profit agencies should be commended for their creativity and their ability to complete projects.

In response to a question from Councilmember Higgins regarding the selection process, Mr. Villa advised that staff would review the history of each non-profit agency with regard to their use of CDBG funds and the accomplishment of goals. He reported that staff would meet with agency personnel to discuss and provide an understanding of the goals, which limits the funding for transitional housing.

Mr. Brady noted that although the majority of requests from non-profit agencies addressed transitional housing needs, the primary goal is to establish more sustainable housing in the target area.

Mayor Smith stated that the Council recognizes the fact that needs exist for both transitional and sustainable housing, but the emphasis of this Program would be the creation of sustainable neighborhoods.

Vice Mayor Jones said that he supports programs that facilitate home ownership.

Mayor Smith thanked staff for the presentation.

3. Hear a presentation, discuss and provide direction on changes to the annexation process as recommended by the Transportation and Infrastructure Committee.

Senior Planner Angelica Guevara addressed the Council and advised that staff would provide an overview of the annexation policy and the proposed changes that would establish an administrative process to allow the sale of utilities to properties located outside the current City limits without requiring annexation, provided that the site complies with all City development standards and when annexation is not in the best interests of the City. She noted that following a presentation to the Transportation and Infrastructure Committee (TIC) on September 8th, the Committee made a recommendation to the Council that the changes be approved.

Ms. Guevara displayed a PowerPoint presentation on the annexation process (a copy is available for review in the City Clerk's Office), and she highlighted the current policy. She noted that annexations are voluntary and, when approved, allows the provision of City services and utilities to the annexed property. Ms. Guevara advised that an Annexation Equity Fee was established for the annexation of developed properties in the County, which removes the incentive for properties to develop in the County prior to requesting annexation.

Ms. Guevara stated that annexation applications are evaluated and reviewed based on the location within the planning area and compliance with the General Plan. She said that applicants are required to install improvements at their expense that comply with the City's development standards or provide an in-lieu payment. Ms. Guevara advised that the policy changes have been proposed in order to address problems that have been identified relative to providing services such as solid waste, fire protection and other emergency services. She referred to a list of the departments and divisions (see Attachment 1) that review each annexation application, and she stated that staff makes recommendations to the Council based on these reviews.

Ms. Guevara advised that the recommended change would establish an administrative process to allow the City to enter into Utility Service Agreements with property owners without requiring annexation of residential properties under the following conditions:

- Annexation is not in the best interest of the City.
- The property complies with City development standards.
- The applicant pays all required fees.

Ms. Guevara noted that annexation is not in the best interest of the City when there are operational costs to the City for solid waste services and when issues exist relative to fire vehicle access, fire hydrant location, hydrant flow capacity, inconsistent zoning, and potential emergency response impediments within gated communities. She reported that a Utility Service Fee equivalent to the City's Impact Fees would be assessed to the property owner. Ms.

Guevara advised that the only cost to the City would be unrealized State-shared revenues, which amounts to approximately \$1,040 per dwelling unit. She said that if so directed by Council, staff will prepare the necessary changes to the following documents for Council consideration:

- Terms and Conditions for the Sale of Utilities
- Annexation Ordinance (Zoning Code)
- Annexation Guidelines

In response to comments by Vice Mayor Jones, Ms. Guevara confirmed that the recommendation by staff is to implement an administrative process that would enable the provision of utilities rather than present every case to the Council for consideration.

Responding to a question from Councilmember Higgins, Ms. Guevara explained that property owners are required to apply for annexation in order to receive utility services. She stated that if a determination is made during that review process that annexation is not in the best interest of the City, staff would work with the property owner to enter into a Utility Services Agreement to receive utilities without annexation.

Vice Mayor Jones advised that Ordinance 3880, which was adopted in 2001, required properties to be annexed into the City in order to receive services. He stated that an effort has been made to provide options that allow for the provision of utility services without annexation when certain City standards are met.

Discussion ensued regarding the various scenarios that could be presented by property owners pertaining to annexation and the provision of utility services.

Mayor Smith noted that all requests from County properties for utility services are required to come forward as applications for annexation. He stated that the proposed administrative process would enable staff to offer a Utility Services Agreement to properties not eligible for annexation provided the properties meet City standards. He added that a property owner that is denied annexation and/or City services could appeal staff's decision to TIC.

Deputy Building Safety Director Tammy Albright stated that in order for a non-annexed property to receive Utility services, the property owner would enter into a Utility Service Agreement and be required to extend the water/sewer lines to their property, improve the property to City standards, and pay all fees. She added that the property owner would also be required to pave the street in front of the property.

Deputy Director Christine Zielonka said that in some cases, a roadway constructed to City standards may not be necessary. She advised that a process is in place whereby staff can present a request for an exception to the Deputy City Manager so that the roadway could be constructed to a lesser standard.

In response to a question from Mayor Smith, Mr. Brady stated that the City requires the roadway construction before utility service is provided because the requirement is not enforceable once service has been provided and the City would likely incur the cost to improve the roadway when annexation occurs in the future.

Ms. Zielonka noted that dirt roadways also create environmental problems related to dust control.

Councilmember Finter, Chairman of TIC, expressed support for the administrative process. He stated the opinion that the process provides a balanced approach because an applicant has the option to appeal staff's decision to TIC.

Responding to comments by Councilmember Somers, Ms. Zielonka concurred that situations are likely to arise where the owner of a single-family residence would protest the City's fees and cost estimate for the provision of utilities.

Councilmember Somers explained that these costs were typically included in the price of the home purchased by City residents and financed over time with a mortgage.

Further discussion ensued relative to the fact that staff did not recommend that the City act as a financial institution by establishing a program to accept payments over time; and that a Special Improvement District was not a viable option for a single-family residence.

Ms. Albright noted that when a customer extends a utility line past undeveloped property to reach their residence, the City monitors the line for a ten-year period for any new development that may want to buy into the line and then collects the fees for reimbursement to the original customer.

Mayor Smith said that this Council and future Councils would have to address these difficult issues for many years to come as the City expands into the County. He stated the opinion that providing utility services is an accommodation to the property owner. Mayor Smith added that he has more sympathy for long-time County property owners than for those who have constructed buildings and homes under a County permit in an effort to circumvent City building standards. He further stated that the Council should be resolute in their approach to these issues so that existing City residents are not burdened with the costs.

Additional discussion ensued relative to the fact that many scenarios are possible for annexation cases; that applicants could appeal staff's decision to TIC; and that the philosophy employed by the City would be to attempt to have the process work for both the City and the applicant without negatively impacting existing City residents.

City Attorney Debbie Spinner stated the opinion that the philosophy currently reflected in the City Code is that if a property meets all of the requirements, the property must be annexed in order to receive utilities. She stated that staff presently does not have the discretion to allow a property to enter into a Utility Service Agreement without annexation. She added that the Council would have to make a change to the City Code to provide staff with that authority.

Mayor Smith noted that an ordinance would be required in order to make that change to the City Code.

Vice Mayor Jones recalled the recent case of a property owner who requested services without annexation in order to circumvent the City's zoning requirements regarding group homes, which would not have been in the City's best interest.

Ms. Zielonka noted that zoning requirements are presently included in a Utility Service Agreement with reference to meeting City standards and compliance with the General Plan.

Vice Mayor Jones stated that property with legal, non-conforming zoning could be annexed into the City because that is the existing zoning.

Ms. Spinner advised that once the City provides water service to a property, the only legal reason for which service can be terminated is non-payment of the bill. She added that land use regulations cannot be imposed in a Utility Service Agreement.

Councilmember Somers stated, and Ms. Spinner concurred, that the City cannot enforce land use regulations on property that falls under the County's jurisdiction.

Mayor Smith stated that the typical dilemma regarding the provision of utility services would be related to horse properties in the County, and he noted that TIC would continue to address these types of cases. He added that developers should be responsible for complying with City standards.

Councilmember Finter expressed the opinion that the proposed procedures have checks and balances, and he added that the cases that are considered to be exceptions would have due process.

Councilmember Somers stated the opinion that the only measure to consider regarding annexation is whether the annexation is or is not in the best interests of the City. He added that certain properties should be considered for annexation with conditions, such as requiring the installation of a fire hydrant or sprinklers.

In response to a question from Councilmember Higgins, Ms. Spinner advised that the change to allow annexations of noncontiguous properties occurred two to three years ago. She said that the Council wanted to encourage annexation as development occurred.

Mayor Smith noted that this issue would likely return to the Council many times in the future. He added that the many different scenarios and different types of exceptions make a fair and balanced decision very difficult.

Responding to a question from Mayor Smith, Ms. Spinner confirmed that staff's proposal would require a change to the City Code in order for the City to provide utility services without annexation.

Mayor Smith requested that staff prepare the language that addresses a change to the Code for Council consideration, at which time the Council could debate the merits of the issue.

Ms. Spinner suggested that two questions need to be addressed:

1. Should staff have the discretion to enter into a Utility Service Agreement when staff has determined that annexation is not in the best interest of the City?
2. Should staff have the discretion to enter into a Utility Service Agreement when the property owner does not want to annex into the City?

Mayor Smith recommended that staff prepare proposals for Council consideration on the following options:

1. Maintain the status quo.
2. Require all applicants to go through the annexation process and when staff determines that annexation is not in the best interests of the City, enter into a Utility Services Agreement.
3. Allow an applicant to bypass the annexation process and apply directly for utility services.

Mayor Smith requested that staff prepare proposals for the three options and present the information to the Council at a future meeting. He thanked staff for the presentation.

4. Acknowledge receipt of minutes of various boards and committees.

- a. Board of Adjustment meeting held on September 9, 2008
- b. General and Economic Development Committee meeting held on September 24, 2008
- c. Audit and Finance Committee meeting held on October 2, 2008
- d. Public Safety Committee meeting held on October 2, 2008
- e. Community and Neighborhood Services Committee meeting held on October 16, 2008

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that receipt of the above-referenced minutes be acknowledged.

Mayor Smith declared the motion carried unanimously by those present.

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

Councilmember Somers: Mesa Gateway Strategic Development Plan Open House

Councilmember Higgins: Intergovernmental Cultural Interfaith Dialogue Dinner

6. Scheduling of meetings and general information.

City Manager Christopher Brady stated that Diversity Program Director Mary Berumen was present to update the Council on the Building Strong Neighborhoods project.

Ms. Berumen introduced Neighborhood Outreach Volunteer Coordinator Katie Brown and Neighborhood Outreach Coordinator Susan Frabotta, both of whom were instrumental in the success of the initiative in District 2.

Ms. Frabotta displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to highlight various aspects of the project, which was accomplished in cooperation with WaMu, HandsOn Greater Phoenix and the Casa del Sol neighbors. She reported that more than 50 volunteers provided landscaping and painting assistance to three

homes located in a neighborhood that was identified by Code Compliance and the neighborhood team.

Councilmember Finter complimented Ms. Brown and Ms. Frabotta for their efforts, and he noted that the project made a positive impact on the neighborhood.

Mayor Smith thanked staff, the volunteers and the sponsoring organizations for investing in the community.

Ms. Frabotta advised that the project is highlighted in a six-minute video that can be accessed on Councilmember Finter's website.

Deputy City Manager Kari Kent introduced Solid Waste Director Willie Black and Solid Waste Safety and Training Representative Pat Raidy. She reported that at the National Solid Waste Association of America conference last week, the City of Mesa received three awards. Ms. Kent advised that Mr. Black received the Lifetime Member Award for contributions made to the national organization. She added that Mr. Raidy received a Professional Achievement Award in recognition of safety programs that he has developed.

Mr. Black reported that the City's Collection Operation received the Gold Excellence Award for the Alley to Curbside Service Conversion Project, which was completed in 2007.

Mayor Smith said that Solid Waste collection is a service that goes unnoticed when the department is doing a good job, and he commended staff for providing excellent service.

Mr. Brady thanked all employees and the Councilmembers who participated in the recent City Hall at the Mall.

Mr. Brady stated that the meeting schedule is as follows:

Saturday, November 1, 2008, 8:00 a.m. – District 4 Pancake Breakfast at Fire Station #202

Monday, November 3, 2008, TBA – Study Session

Monday, November 3, 2008, 5:45 p.m. – Regular Council Meeting

Mayor Smith expressed condolences to the family of Shane Figueroa, the Phoenix Police Officer who was recently killed. He noted that Officer Figueroa was a resident of Mesa and a graduate of Mesa High School.

7. Items from citizens present.

There were no items from citizens present.

.8. Adjournment.

Without objection, the Study Session adjourned at 9:11 a.m.

SCOTT SMITH, MAYOR

ATTEST:

LINDA CROCKER, 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 30th day of October 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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Attachment (1)