

COUNCIL MINUTES

December 12, 2002

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 December 12, 2002 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Dennis Kavanaugh
Rex Griswold
Kyle Jones
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 December 16, 2002 Regular Council Meeting.

All the items on the agenda were reviewed among Council and staff with no formal action taken. Staff responded to a variety of questions from the members of the Council and provided brief overviews on issues as requested.

The following items were removed from the Consent Agenda: Mayor Hawker: Agenda Items 4m, 4o, 4s and 6.2a, 6.2b; Councilmembers Griswold and Thom: Item 6.1a.

2. Discuss and consider possible additional zoning regulations pertaining to indoor and outdoor swap meets.

Planning Director Frank Mizner stated that staff has brought this item forward in response to a request from Councilmember Griswold. He added that staff is seeking input as to whether the Council would like to strengthen the City's zoning regulations and require the issuance of Council Use Permits for indoor swap meets.

Councilmember Griswold stated that current City zoning regulations require the issuance of Council Use Permits for all outdoor swap meets and stated the opinion that a consistent policy that requires the issuance of a Council Use Permit whether the swap meets are held inside or out, may be appropriate. He added that the Mesa as well as other cities is beginning to see a number of empty "big box retail stores" as businesses such as K-Mart begin to close a number

of their stores. He stated the opinion that the City may wish to be proactive in this area and direct staff to research what other cities such as Peoria are doing about empty "big boxes," and whether they require Council Use Permits, in an effort to possibly develop a policy.

Councilmember Walters said that she would be willing to look at this issue further but would like it on a broader, expanded basis.

Mr. Mizner explained that one of the challenges the City may face is developing criteria that could be used to deny the issuance of a Council Use Permit. He noted that he is unaware of any statistics that would indicate that indoor swap meets negatively impact the areas in which they are located or result in increased criminal activities. He said that denials would have to be based on sound, proven criteria that would be held up by the courts.

Councilmember Walters commented on the merits of surveying other cities to determine what policies they have in place regarding this issue.

Vice Mayor Kavanaugh cautioned the Council to proceed with caution and noted that to date they have not rendered a decision on appropriate uses for vacant "big box" retail facilities.

Councilmember Thom said that a number of the vacant buildings are being converted into furniture and 99 cent stores and they do collect sales tax. She added that she can understand why the outdoor swap meets should be regulated since issues such as litter need to be addressed.

Mayor Hawker agreed that staff should research what other cities are doing in this area but added that he is not sure that he is opposed to allowing the indoor swap meets to continue as is. He commented that should parking become a problem at these locations, an ordinance could be written to address that specific matter perhaps by governing the number of vendor stalls to be allowed with a certain amount of building space. He said that what happens inside the building is not as important to him.

In response to a comment from the Mayor, Mr. Mizner stated the opinion that these types of businesses are required to pay sales tax. He said that either the swap meet operator obtains the license and collects from the various vendors or the vendors each apply and obtain the license. He added that the problem comes in as far as enforcement and manpower.

Mayor Hawker noted that another problem is that of signage and said that he would like to pursue bringing the signs into compliance when the "big box" retailers vacate the buildings.

Councilmember Griswold reiterated that he believes it would be a good idea for staff to do the research and for Council to look at this matter before it comes a problem and spoke in favor of being "proactive" rather than "reactive."

Mr. Mizner stated that staff will pursue this matter and bring their findings back to the Council for their review and consideration.

3. Hear, discuss and consider a Legislative update.

Assistant to the City Manager Jim Huling and Government Relations Assistant Kelly Orrick addressed the Council relative to this agenda item.

Mr. Huling said it was their intent to provide the Council with information relative to the upcoming Legislative Session and issues that have been identified as significant to the City of Mesa, particularly issues governing State Shared Revenues and Eminent Domain. (Copy of Legislative Update is attached.)

Ms. Orrick provided a brief overview of the makeup of the 46th Legislature, which will convene its first meeting on January 13, 2003. She briefly discussed the issues of State Shared Revenues and Eminent Domain and discussed staff's intention to continue to monitor these important areas and report their findings to the Council. She commented on the fact that staff's position relative to eminent domain issues is that the City wants to retain local authority at the local level and to utilize eminent domain as a redevelopment tool.

Vice Mayor Kavanaugh commented on the importance of eminent domain and stated the opinion that the City's position should be to carefully review and analyze what is being proposed. He cautioned staff to be ware of mandates and pre-emptions and stressed the importance of working with the City's legislative delegation to review the various issues. He also commented on the importance of maintain local control and added the opinion that additional up front notice of possible eminent domain proceedings would be appropriate.

Councilmember Whalen expressed the opinion that effort should be expended to develop a policy and/or regulations, a form of "stop gap clause," whereby before eminent domain issues are taken to court, mitigation or mediation efforts should be required. He added that this extra step may reduce legal battles and expensive court costs.

Mayor Hawker said that on eminent domain proceedings for public use, i.e. fire stations, parks, etc., he does not have a problem with the current procedures. He added that he is a strong believe in private property rights and does not believe it constitutional to take one person's private property and transfer it to another person under the guise of "redevelopment." He spoke in opposition to transferring private property from one investor to another.

Councilmember Thom commented on a bill that is being introduced by Senator Farnsworth that deals with redevelopment issues and specifies that eminent domain proceedings should be allowed only when they serve a public purpose and not a private purpose. She indicated that she will vote in support of the legislation and stated the opinion that the bill will eliminate abuse.

Councilmember Walters commented on the fact that "friendly redevelopment" does not involve condemnations and pointed out that there are times when it is beneficial for the owners of the properties to have their land taken by eminent domain (tax benefits, etc.). She stated the opinion that they should be careful and make sure that the tools that are beneficial to the owners remain in place should the Council want to use them for the good of the property owners. She commented on the positive impacts of redevelopment on the entire community and said that she agrees they must protect private property owners. She added that they must all reinvest in neighborhoods.

Mayor Hawker requested that staff update on the Council on the various issues once all of the bills have been introduced. He said that at that time the Council will be in a better position to

provide direction. He also agreed with Councilmember Walters' comments and said that there are benefits to be realized for some as a result of condemnation and added that those benefits may justify allowing eminent domain powers to remain in place so they can be imposed when that is the desire of the property owners.

Councilmember Whalen requested that a "minority report" on this issue be developed making it clear that a majority of the Council shares this opinion but the opinions are not unanimous.

Mr. Huling discussed staff's intent to bring the various proposals to the attention of the Council as they arise on a regular basis so that Council direction can be given.

Committeemember Whalen stated the opinion that the issue of a gasoline tax should be looked at again in an effort to determine whether any support exists for proceeding with one. Mayor Hawker commented that the League of Arizona Cities and Towns is considering pursuing indexing a gas tax and said that he would like the City of Mesa to introduce a bill so that they can see who is in favor of this issue. He added that a majority of the Council agrees that a bill should be developed and introduced regarding this matter.

Councilmember Thom suggested that staff meet with Representative Gary Pierce regarding this issue and stated the opinion that he would be their most likely source of support.

Mr. Huling also informed the Council that normally a special census would take place in 2005 but because the costs associated with conducting the special census would be in excess of \$30 million, with the first payment due in April for cities with populations over 200,000, staff is working with the League to introduce legislation that would allow cities to choose to conduct a census "survey" instead. He said that the cost of the survey would be a fraction of what it would cost to conduct the special census, probably in the range of \$5 million, and asked for Council support to pursue this matter. He noted that the survey would also be conducted by the Census Bureau and although it will not be as detailed as the special census, a large amount of important data would be obtained.

Mayor Hawker stated that it is the consensus of the Council that staff pursue legislation allowing cities to conduct a census "survey" rather than a special census.

Vice Mayor Kavanaugh discussed the fact that all three representatives in District 21 are residents of Chandler and said that this is the first time there has been a district without Mesa representation. Discussion ensued relative to the importance of networking with the representatives and ensuring that they are kept fully informed of issues affecting Mesa.

Mr. Huling stated that staff will follow up on this matter.

Mayor Hawker thanked staff for their update.

4. Discuss and consider the Eastbound Departure Study Team Report.

Wayne Balmer, Facilitator and Project Manager for Williams Gateway Airport, provided the Council with a brief overview of a report prepared by a study group formed by the Phoenix Airspace Users Working Group (PAUWG) in response to a request from the City of Mesa relative to eastbound departure procedures for Phoenix Sky Harbor International Airport. He

explained that the Eastbound Departure Alternatives Study Team was formed to review alternatives, make recommendations and report its findings to PAUWG.

Mr. Balmer stated that the Council requested that staff approach the PAUWG relative to considering options to modify current procedures to reduce the effect of aircraft overflight in northwest Mesa and the Lehi portion of the Salt River Pima-Maricopa Indian Community. He noted that the Council's goal was to identify alternatives and to modify current procedures to allow aircraft to more closely follow the industrial area on the Salt River's north river bank, particularly east of the 101 Freeway, rather than continuing to overfly the residential areas on the south river bank to the degree they do presently.

Mr. Balmer explained that three alternatives were developed and provided a brief overview of each of the three exhibits. He added that staff has analyzed all three proposals and developed a matrix to compare them in relation to Mesa's concerns regarding moving the aircraft to the north side of the river.

Discussion ensued relative to discussions that took place between the City of Mesa and the Salt River-Pima Indian Community and the cities of Scottsdale, Tempe and Phoenix, the fact that staff is planning to attend an upcoming January 16th PAUWG meeting, the fact that in order to implement any of the alternatives, agreement would have to be reached between the FAA and the cities of Tempe and Phoenix (due to the fact that an IGA is in place that establishes a 4DME Gate and Point Chez), the fact that it may take up to a year to establish this goal, Mr. Balmer's opinion that a "worst case scenario" would be that the route is never changed and ARNAP, a new procedure that the FAA is adopting around the nation.

Mr. Balmer reported that after looking at all of the variables, the Committee recommended Exhibit A and said his purpose for presenting this agenda item this morning is to determine whether support exists for proceeding in this manner.

Additional discussion ensued among the members of the Council relative to the fact that only northern departures are being looked into at this time,

Discussion ensued relative to the fact that all recommendations would have to conform to the provision the City of Tempe and City of Phoenix's 1994 IGA and the contents of the materials distributed to the members of the Council.

5. Acknowledge receipt of minutes of boards and committees.

- a. Downtown Development Committee meeting held November 21, 2002.
- b. Economic Development Advisory Board meeting held November 5, 2002.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

6. 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:

Mayor Hawker: Tour of Williams Gateway Airport with Senator John McCain

7. Scheduling of meetings and general information.

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

Monday, December 16, 2002, 4:15 p.m. - Special to Executive Session

Monday, December 16, 2002, TBA – Study Session

Monday, December 16, 2002, 5:45 p.m. – Regular Council Meeting

Thursday, December 19, 2002, 7:30 a.m. – Study Session

Thursday, December 19, 2002, 9:00 a.m. – Utility Committee

Thursday, January 2, 2003, 7:30 a.m. – Study Session

Monday, January 6, 2003, 2:30 p.m. – General Development Committee

8. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Study Session adjourned at 10:06 a.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

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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 12th day of December 2002. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK