

# COUNCIL MINUTES

June 28, 1996

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 June 28, 1996 at 7:30 a.m.

## COUNCIL PRESENT

Mayor Wayne Brown  
Pat Gilbert  
John Giles  
T. Farrell Jensen  
Dennis Kavanaugh  
Jim Stapley

## COUNCIL ABSENT

Joan Payne

## STAFF PRESENT

C.K. Luster  
Joan Baier  
Wayne Balmer  
Kathy Barrett  
Neal Beets  
Tanya Collins  
Linda Crocker  
Jack Friedline  
John Geier  
John Gendron  
Joe Holmwood  
Lars Jarvie  
Barbara Jones  
Sharon Joyce  
Harry Kent  
Wayne Korinek  
Ron Krosting  
Larry Lines  
Jeff Martin  
Tom Mattingly  
Mark Meyers  
Frank Mizner  
Dave Nichols  
Ruth Anne Norris  
Ellen Pence  
Bryan Raines  
Sharon Seekins  
Jaime Warner  
Mindy White  
Ralph Wisz  
Others

## OTHERS PRESENT

Bill Brando  
Robert Brinton  
Jack DeShelter  
Lee Fairbanks  
Clifford Harris  
Robert Jackson  
Larry Lazarus  
Dan Nowicki  
Others

Mayor Brown excused Councilmember Payne from the meeting and Councilmember Giles from the beginning of the meeting.

1. Prescheduled public opinion appearances (Maximum of three speakers for five minutes per speaker).

- a. Hear from Bill Brando regarding a 60 day extension of time to all whom the Mesa Smoke-Free Ordinance will impact on as of July 1st, 1996.

In response to a question from Bill Brando, 61 So. Macdonald, relative to Proposition 200, Mayor Brown advised that the Council would address this issue later in the meeting.

Mr. Brando submitted additional signed petitions from citizens opposed to the smoking ban and stated the opinion that Proposition 200 violates the Federal Constitution and citizens' rights. Mr. Brando discussed negative impacts on businesses and requested that the Council approve a 60-day enforcement extension for all businesses located within the City of Mesa to allow additional discussion to occur.

(Councilmember Giles joined the meeting at 7:35 a.m.)

2. Acknowledge receipt of minutes of meetings of various boards and committees.

- a. Crime Prevention Advisory Board meeting held June 19.

It was moved by Councilmember Stapley, seconded by Councilmember Jensen, that the minutes of the Board be accepted.

Mayor Brown declared the motion carried unanimously by those present.

2.1. Discuss and consider a proposal to extend the 1/2 cent sales tax for financing freeways and transit.

Mayor Brown discussed newly released information relative to a proposal to extending the existing 1/2 cent sales tax and utilizing the revenues generated to finance freeways and transit. Mayor Brown spoke in favor of the proposal and requested Council input and support.

Discussion ensued relative to the importance of implementing a regional freeway/transit program and the importance of improving air quality, and the positive impacts of accelerating the freeway system in Mesa and surrounding cities and towns.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that a resolution in support of extending the 1/2 cent sales tax for the purpose of financing freeways and transit be prepared by staff for Council action.

Mayor Brown declared the motion carried unanimously by those present.

3. Review items on the agenda for the July 1, 1996 Regular Council Meeting.

All items on the agenda were reviewed by Council and staff with no formal action taken. There was particular discussion relative to the following agenda items:

- \*10.1 Consider authorizing the City Manager to execute contracts with five public defenders for the Mesa City Court.

Councilmember Kavanaugh recommended that the City routinely require contracted public defenders to provide verification of workmen's compensation insurance coverage.

Neighborhood & Community Assistance Director Tanya Collins indicated that staff would pursue this issue.

- 15. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances:

- a. Z96-29

Community Development Manager Wayne Balmer advised that this case has been continued twice and noted that the crucial issue is the appropriateness of the proposed seven-story hotel at the requested location. Mr. Balmer stated that Councilmember Payne had requested that staff prepare a list of conditions for approval of the ordinance and briefly discussed the conditions and the case.

Vice Mayor Gilbert noted that the proposed site is an optimum corner/mall location and added that although he is not opposed to the development of a La Quinta Inn within the City of Mesa, he is uncertain that the selected site is appropriate.

Larry Lazarus, an attorney representing the applicant, La Quinta Hotels, commented that the applicants recognize that the site represents a premier location in Mesa and discussed the applicant's intention to ensure the appropriateness of the hotel's appearance and operation.

4. Further discussion and consideration concerning proposed requirements for secondary fencing for residential swimming pools.

Mayor Brown advised that staff has attempted to draft an ordinance which contains all of the input provided by the Council.

Mr. Balmer discussed the contents of the draft ordinance and stated the opinion that the proposal addresses a majority of citizens' concerns, particularly the ordinance's retroactivity issue. Mr. Balmer added that the possibility of exempting those citizens who do not have children under the age of seven in their household from compliance remains to be addressed.

Mayor Brown recommended that play pools and/or wading pools be exempted from the proposed ordinance. Discussion ensued among the members of the Council and it was agreed that the Mayor's suggestion be implemented.

Mayor Brown also requested that the Council consider exempting new pools in households where there are no children under the age of seven.

Councilmember Giles stated that the purpose of the proposed ordinance is to address a critical problem which exists within the community. Councilmember Giles indicated his willingness to discuss providing age-restrictive zoning neighborhoods with the ability to choose one of the three

previously discussed exemption options but said that he would not support the exemption of households not containing children under the age of seven.

Discussion ensued relative to the fact that Phoenix and Scottsdale currently issue pool fencing exemptions to households which do not contain children under the age of seven, the possibility of allowing the Zoning Administrator to determine whether new pool owners be allowed to utilize a latching option, citizen complaints relative to government intrusion, temporary pools, staffs suggestion that an ordinance be adopted and then reviewed in approximately six months for possible changes, and the limited amount of age-restrictive zoning in Mesa.

Vice Mayor Gilbert indicated his willingness to consider an option to exempt households which do not contain children under the age of seven and stressed the importance of reaching a compromise and presenting a unified Council approach to this issue.

In response to a question from Councilmember Giles, Mr. Balmer advised that introduction of the proposed ordinance will occur at the July 1, 1996 Regular Council Meeting. Mr. Balmer added that should the Council approve ordinance revisions, the proposed ordinance would have to be reintroduced at the July 15, 1996 Regular Council Meeting.

5. Further discussion and consideration concerning Proposition 200 smoking regulations.

Vice Mayor Gilbert stated the importance of proceeding with this issue and avoiding additional delay.

In response to a question from Councilmember Giles, Councilmember Stapley discussed his recent visit to Stagg Smoke Shop in Superstition Springs Mall. Councilmember Stapley stated the opinion that the facility should not be categorized as a smoke shop and added that only approximately 20% of the store's inventory is smoking related. Councilmember Stapley said that the owner of Stagg's Smoke Shop would have to separate his businesses in order to be classified as a smoke shop and commented that smoke shops exemption requests would have to be reviewed on a case-by-case basis.

Mayor Brown discussed the difficulties involved in voting on the entire ordinance when portions may require amendments. Mayor Brown commented on exemptions for No. 6 Licenses and indicated that he would prefer to vote on this issue as a separate item. Mayor Brown expressed the opinion that the proposal currently imposes hardships on businesses and added that methods should be implemented which would meet the spirit of the law and not impose negative impacts on businesses within the City. Mayor Brown questioned the equitableness of allowing exemptions for No. 6 licenses and denying the same for No. 7 and No. 12 licenses. Mayor Brown expressed the opinion that bowling alleys and pool halls could have separate smoking areas that contain ventilation systems similar to those utilized in No. 6 establishments.

Mayor Brown added the opinion that if exemptions were voted on as separate issues, smoke shops could be required to apply for use permits rather than receiving overall exemption approval.

Discussion ensued relative to public housing and No. 6 Licenses, the fact that single pass ventilation systems as outlined in the smoking proposal are not feasible, and ventilation alternatives currently under investigation.

Councilmember Jensen expressed the opinion that smoking in public housing and the possibility of extending No. 6 Licenses to allow alternative ventilation systems to be explored should be addressed by the Council. Councilmember Jensen added that the Council should comply with the law as voted upon by the citizens of Mesa.

Discussion ensued relative to private meeting rooms, the feasibility of inspecting sales tax receipts to gauge the impacts of Proposition 200 on businesses, the possibility of granting of use permits for smoke shops, and allowing No. 7 and 12 Licenses the same privileges as No. 6 License holders.

Councilmember Kavanaugh recommended that two separate ordinances be voted upon by the Council: 1) exemptions for Class 6 Licenses and public housing, and 2) exemptions for private meeting rooms and tobacco shops.

Mayor Brown advised that it is the consensus of the Council present that staff be directed to prepare separate ordinances relative to public housing and the August 31, 1996 extension of No. 6 licenses as recommended by Councilmember Jensen. Mayor Brown advised that the two separate items will be voted on in addition to the original ordinance.

6. Further discussion and consideration concerning procedures for Council meetings.

Mayor Brown requested input relative to suggestions regarding conducting Council Meetings which were prepared in an effort to improve the efficiency of the meetings. (See Attachment 1.)

Mayor Brown stated that items 5, 6, and 9 require additional discussion.

5. Limit speakers to five minutes or less except in extraordinary cases.

Vice Mayor Gilbert stated the opinion that the Mayor has the authority to limit the amount of time allotted each issue and added that a pre-set time limit may not be required.

Mayor Brown indicated that he would allocate a set amount of time for each speaker and would increase the amount if required.

City Manager Charles Luster recommended that the Mayor maintain the option to control speakers' time on an individual by individual basis.

6. Modify the consent agenda.

Mayor Brown stated the opinion that the consent agenda process requires modifications.

Councilmember Stapley concurred with the Mayor's remarks. Vice Mayor Gilbert expressed the opinion that the process should remain unchanged for the present time and that the Mayor should control the consent agenda process on a meeting-by-meeting basis.

Mayor Brown stated that the consent agenda process would be managed by the Mayor or his designee. Mayor Brown added that citizens who remove items from the consent agenda and then discuss unrelated topics may be deemed out of order.

Councilmember Giles stated the opinion that only citizens with legitimate input and/or concerns should be allowed to remove and address consent agenda items. Councilmember Giles indicated that he supports suggestion number 6 as outlined in the attached report, which states: Consider a policy that items on the consent agenda can only be removed by a Councilmember or individual directly involved in the issue (such as the second-lowest bidder for a contract.) If a citizen wants an item pulled off consent, the citizen could contact a Councilmember directly and ask that the Councilmember pull the item off of consent.

Mayor Brown concurred with Councilmember Giles' remarks. Mayor Brown requested that City Council agendas be advertised earlier in the week to allow citizens a greater opportunity to review agenda items. Mayor Brown added that citizens would then have sufficient time to contact a Councilmember directly relative to removing items from the consent agenda. Mayor Brown said that all requests for items to be removed from the consent agenda would be discussed at the Friday Council Study Session prior to the Regular Council Meeting.

City Manager Charles Luster recommended that City Council agendas be advertised on Thursdays to allow staff adequate time to finalize agenda items. Mayor Brown indicated that Thursday would be an acceptable date for advertising.

8. Combine opportunities for citizens to speak.

Councilmember Giles indicated that he supports the recommendation relative to scheduling 'prescheduled public opinion appearances' and 'items from citizens present' as final items on the Regular Council Meeting Agenda rather than adjourning to a separate Council Study Session to allow those agenda items to occur.

Councilmember Stapley recommended that 'prescheduled public opinion appearances' be scheduled at the beginning of the Regular Council Meeting agenda to accommodate those speakers who have reserved time to address specific issues.

Councilmember Jensen questioned whether the number of 'prescheduled public opinion appearances' should remain flexible rather than limiting the number to three. In response to a question from Councilmember Jensen, Mr. Luster advised that staff rarely receives more than three requests to speak under this agenda item. Mayor Brown advised that the number of 'prescheduled public opinion appearances' will remain limited to three speakers for the present time.

Mayor Brown directed staff to revise the agenda format and place 'prescheduled public opinion appearances' at the beginning of the agenda.

9. Consider two separate proposed ordinances which update and clarify City Council Meeting procedures and address issues involving citizen advisory boards.

Councilmember Stapley discussed the first proposed ordinance which updates and clarifies Council Meeting procedures and recommended that on page 2, under 1-5-8 (C), an additional item be added, 4., relating to demonstrations. Councilmember Stapley advised that inappropriate demonstrations have disrupted Council meetings in the past and should be addressed.

Mayor Brown acknowledged that large groups of citizens leaving the meeting after addressing their particular agenda items have disrupted Council Meetings and requested that security be instructed to deal with these specific situations.

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

Councilmember Kavanaugh updated the Council on his attendance at a recent Maricopa Association of Governments (MAG) Human Services Coordinating Committee Meeting.

8. Scheduling of meetings and general information.

City Manager Charles Luster advised that the meeting schedule is as follows:

Tuesday, July 2, 1996, 4:00 p.m. - Council Policy Session

Mr. Luster advised that the July 5, 1996 Council Study Session has been canceled.

9. Items from citizens present. (Maximum of three sneakers for five minutes per speaker).

Dr. Clifford Harris addressed the Council relative to Proposition 200 and advised that his Committee supports the two proposed ordinance revisions previously discussed by the Council. Dr. Harris expressed concern relative to recommending or allowing additional smoking ordinance exemptions. Dr. Harris requested that the Council allow sufficient time to study the effects of Proposition 200 on the business community and expressed the opinion that the smoking restrictions will not negatively impact businesses in the City of Mesa.

Dr. Harris advised that he previously contacted Tim Hogan, the Director of Research at the College of Business at Arizona State University, relative to conducting a 'before and after' study relative to the implementation of Proposition 200 and the effects on the community. Dr. Harris recommended that the Council consider retaining Mr. Hogan to perform this research and provide the Council with accurate results relative to this issue.

Discussion ensued relative to the drafting of Proposition 200, the negative effects of second-hand smoke, and the importance of allowing sufficient time to gauge the effectiveness of Proposition 200.

Mr. Robert Jackson addressed the Council relative to the smoking ban in Mesa and questioned the status of allowing smoking to occur in hotel banquet rooms.

City Attorney Neal Beets advised that two additional ordinances will be introduced at the July 1, 1996 Regular Council Meeting, one which addresses Class 6 bars and another which addresses public housing. Mr. Beets stated that exemptions will not be granted to hotel banquet rooms.

Mr. Jackson expressed strong opposition to the implementation of Proposition 200 in the City of Mesa and discussed the smoking ban's negative impacts on the business community. Mr. Jackson advised that he is the owner of a billiard establishment and stated the opinion that the smoking ban will force customers to congregate outside of the pool hall which in turn will increase loitering and acts of violence.

Mr. Jackson reported that he recently conducted a 'smoke free test day' in his establishment and realized a 37.1% decrease in revenues. Mr. Jackson stated that he cannot afford to sustain such losses and may be forced to close his business as a result of the smoking ban. Mr. Jackson requested that the Council grant exemptions to businesses in the City of Mesa.

Mayor Brown thanked the speakers for their comments.

10. Adjournment.

It was moved by Councilmember Stapley, seconded by Councilmember Jensen, that the Study Session adjourn at 9:42 a.m.

Carried unanimously.

WAYNE BROWN, 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 28th day of June, 1996. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 15<sup>th</sup> day of July 1996

BARBARA JONES, CITY CLERK

## SUGGESTIONS REGARDING CONDUCTING COUNCIL MEETINGS

Purpose: To improve the efficiency of and streamline meetings of the Mesa City Council, and to increase publicity about agendas for Council meetings.

1. Strengthen the use of Council Committees as the opportunity for the public to ask questions about and comment on agenda items. The result would be that the televised regular Council meetings would become business meetings where the Council discusses and acts.

**Council supports**

2. Increase publicity about regular Council meetings, Council Committee meetings, study sessions, policy sessions, and citizen advisory board and committee meetings. Strengthen publicity on agendas for all meetings, and focus on availability of agendas.

**Council supports**

3. Streamline televised meetings by deleting some agenda items and shifting others to different meetings. For example, Council could "acknowledge receipt" of and discuss citizen advisory board minutes at a study session. Advisory board recommendations for Council action could still be handled at the televised meetings if they need approval by motion, resolution or ordinance. Perhaps we could change the City Code so uncontested subdivision plats and traffic regulations, such as no-parking zones and speed limits, could be approved by another body or person; only disputed plats and traffic regulations would come to the Council.

**Council supports**

4. Use study sessions as a "working session" and reach consensus on issues. **Council supports**

5. Limit speakers to five minutes or less, except in extraordinary cases. Councilmembers also could limit their comments, and not necessarily have to explain their votes. Encourage speakers to address the agenda item only and discourage speakers from bringing up items unrelated to agenda item. Encourage speakers to avoid repeating remarks made by previous speaker, and suggest speakers summarize positions with "I agree with..." or "please vote yes (or no) on ....".

**Council: no consensus**

6. Modify the consent agenda:  
Consider a policy that items on consent agenda can only be removed by a councilmember or individual directly involved in the issue (such as the second-lowest bidder for a contract). If a citizen wants an item pulled off consent, the citizen could contact a Councilmember directly and ask that the Councilmember pull the item off consent.

**Council: some support; Mayor suggests policy that citizens have until Thursday noon to request that items be removed from consent, and Council will decide at Friday study session.**

7. Add first requests for continuances to the consent agenda. Subsequent requests would have to be separately considered as part of the regular agenda.

**Council supports**

8. Combine opportunities for citizens to speak  
At the end of the agenda, do not adjourn Council meeting and convene Study Session. Have "prescheduled public opinion appearances" and "Items from citizens present" as final items on the regular Council meeting agenda. This saves developing separate minutes.

**Council supports; suggestions to move "prescheduled" to beginning of meeting**

9. Consider the attached proposed ordinance, which updates and clarifies City Council meeting procedures. It also addresses some issues involving the citizen advisory boards.

**Council: In proposed ordinance, separate "agenda/council procedure" from "removal of board and commission members/resign to run" sections**