

# COUNCIL MINUTES

August 26, 2004

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 August 26, 2004 at 7:31 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  
Barbara Jones  
Debbie Spinner

1. Review items on the agenda for the August 30, 2004 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: 5f (Hawker)

Items added to the consent agenda: None

Items removed from the consent agenda: None

2. Hear a report, discuss and consider recommendations of the Ad Hoc Committee to Study Police Oversight.

Special Assistant to the City Manager Eric Norenberg introduced members of the Committee who were present in the audience.

Former Vice Mayor Dennis Kavanaugh, Chairman of the Ad Hoc Committee, provided an overview of the diversity of the members, the research conducted by the Committee, and the process utilized to formulate the following recommendations:

1. The Mesa Police Department should create a Use of Force Review Board.

2. The Police Department should strengthen public relations and implement a communications plan to create more interaction between Police and citizens.

Mr. Kavanaugh advised that the Committee is requesting that the Council direct staff to move forward on the recommendations. He stated that Police Chief Dennis Donna was also present to address the Council regarding the issue.

Chief Donna stated that the Police Department would follow the direction of the Council relative to this issue. He advised that the department has concerns with some forms of civilian review, but he noted that the Phoenix model appears to be consistent with the types of policies that the department presently has in place.

Mr. Norenberg explained that the Committee's recommendation proposes that the City Charter language specify that the Use of Force Review Board include a minority representation of two civilian members, and that the Board's responsibility is to act in an advisory capacity to the Chief of Police.

Vice Mayor Walters, a member of the Ad Hoc Committee, thanked Mr. Norenberg for clarifying the recommendation. She emphasized the advisory nature of the proposed Use of Force Board, and she noted that two civilian members would not constitute a majority of the Board's composition. Vice Mayor Walters added that a Phoenix police officer told the Committee that his experience indicated that the civilian members of their board were often more understanding of an officer's actions than were the police officers serving on the board. She also noted that the Committee's discussions reflected support for the Mesa Police Department and a desire to improve the City.

Councilmember Rawles expressed concern that the proposed language for a Charter amendment was very specific, and he stated the opinion that a City Charter should be a document composed of broad principles.

In response to a comment from Councilmember Rawles, City Attorney Debbie Spinner advised that a reference in the July 12<sup>th</sup> Council Report that indicates that she supports the Committee's recommendations is incorrect. She clarified that her responsibility as the City Attorney is to provide legal opinions regarding the Committee's proposed recommendations.

Councilmember Thom, also a member of the Ad Hoc Committee, advised that she was the only dissenting vote relative to Recommendation No. 1, but she expressed strong support for Recommendation No. 2.

Mayor Hawker noted that the City's boards and committees typically report to the City Council. He questioned whether having a board that reports to the Chief of Police poses a conflict with the responsibilities that are designated for elected officials. Mayor Hawker noted that the Council presently has subpoena powers, the ability to conduct investigations and the authority to request the County Attorney to perform an investigation. He expressed concern that an advisory board reporting to the Chief of Police would diminish the powers of the City Council.

Ms. Spinner advised that Section 208 of the City Charter states the following: "The Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency." She noted that the Use of Force Board would be making recommendations to the Chief of Police regarding a specific incident. Ms. Spinner added that the Council would not be precluded from conducting an investigation of the same incident.

Mayor Hawker questioned the manner in which civilian Use of Force Board candidates would be selected in order to reflect the diversity of the community. He also noted that random selection of two civilians from the pool of Use of Force Board candidates might not reflect the diversity of the individuals involved in the incident.

In response to a question from Mayor Hawker, Ms. Spinner advised that civilian members of a Use of Force Board would receive the same legal advice provided to City officials relative to making public comments in reference to an incident in litigation or under investigation, and she stated that her advice would be to refrain from public comment until the issue has been resolved.

Discussion ensued relative to the fact that the Police Department presently has an internal Board of Inquiry that addresses use of force incidents; that the Chief of Police appoints sworn personnel to serve on the Board of Inquiry that reviews an incident relative to department policies and procedures and training issues; that two civilians participating with sworn officers on a Use of Force Board may or may not meet the threshold of the Charter prohibition of civilian review; that including civilian representatives enhances the public credibility of the process; and that individuals selected to participate in the pool of civilians would be required to undergo extensive training.

Ms. Spinner stated that her interpretation of the Charter provision that prohibits a Civilian Police Review Board is that no civilian can legally participate as a member of a Police Review Board. She expressed the opinion that a Charter change would be required to implement the Committee's recommendation.

Councilmember Jones stated that he would like the Freeholders to address the Council to explain their reasons for including the prohibition in the City Charter.

Further discussion ensued relative to the fact that a Charter Amendment could be placed on the March 2006 ballot; that a difference of opinion exists as to whether a Charter amendment would be required; and that action on this issue could be postponed until the Freeholders have provided additional information.

In response to a suggestion by Mayor Hawker that Councilmembers, such as those who serve on the Council Police Committee, might participate on a Board of Inquiry with sworn personnel, Ms. Spinner advised that she would have to investigate that approach prior to offering a legal opinion.

Responding to a request from Councilmember Whalen, Chief Donna explained the process that is currently in place. He stated that when he determines that a use of force incident requires a criminal investigation, the County Attorney conducts the investigation and judges the case based on the merits for criminal prosecution. Chief Donna advised that the internal investigation begins when the criminal investigation has been completed, and that he has the option of utilizing the Internal Affairs Department or appointing a Board of Inquiry or a Special Board. He

noted that the Board would consist of four sworn members of similar rank to the individual involved and a Commander serving as Chairman. Chief Donna added that Police Department policy requires that a Board be convened for each officer-involved shooting incident or officer involvement in the serious injury to an individual or the death of an individual.

Councilmember Whalen expressed support for civilian participation, but he stated a preference for implementing the process without a Charter amendment, and he also expressed concern that placing this topic on the ballot would polarize the community.

Councilmember Rawles suggested that the Freeholders be invited to address the Council regarding this issue at a future Study Session, and he noted that the Ad Hoc Committee should also be invited to attend. He expressed the opinion that the Council should take no action until the Freeholders have had an opportunity to provide their input.

Michael Hughes, a member of the Ad Hoc Committee, stated that utilizing the term "Citizen's Review Board" creates the incorrect perception that the Board consists only of private citizens. He noted that the Committee was very careful in wording the recommendation to ensure that the authority of the Police Department remained intact. Mr. Hughes advised that neighboring communities reported that civilian participation has proven to be advantageous to the communities and that the process has enhanced their police departments. He expressed the opinion that a Charter change was not necessary, and he noted that as a result of participating on the Ad Hoc Committee, the members now have a deeper appreciation for the service provided by the Mesa Police Department.

Further discussion ensued relative to the fact that staff would obtain the criteria utilized by the City of Phoenix in selecting civilian candidates for a Use of Force Board; that the Council would not consider draft proposals of ballot language until the Freeholders have an opportunity to address the Council; that the City Attorney might offer a different legal opinion after hearing the views of the Freeholders; and that the primary recommendation brought forward by the Committee was a proposal for an Advisory Board with limited civilian participation that would not constitute a majority of the Board.

Councilmember Thom stated the opinion that the Police Department enjoys a higher level of public trust than does the City Council, and she expressed support for Recommendation No. 2.

City Manager Mike Hutchinson stated that staff has direction, and he added that the Freeholders would be invited to attend a future meeting.

Mayor Hawker thanked the Ad Hoc Committeemembers and staff for the presentation.

3. Hear a presentation from representatives of the Maricopa County Parks and Recreation Department and the County Board of Supervisors regarding their proposed master plan implementation for the San Tan Mountain Regional Park and the related creation of a conservation easement with the Gila River Indian Community within the "south finger" of these lands.

William Scalzo, Director of the Maricopa County Parks and Recreation Department, addressed the Council regarding the San Tan Mountain Regional Park. He provided an historical overview of the land acquisitions that have been made during the past 35 years in order to create a

regional park that would encapsulate some of the mountain ranges in the southeast corner of the Valley. Mr. Scalzo advised the current land holdings total more than 10,000 acres.

Mr. Scalzo stated that several Valley communities, including Mesa, joined with Maricopa County to hire a consultant to prepare a revised master plan. He reported that a Joint Planning Committee, comprised of experienced Parks and Recreation personnel from the participating Valley communities, was formed to assist in the effort. Mr. Scalzo added that a stakeholders' group includes representatives of the Gila River Indian Community, the Johnson Ranch development, Boy Scouts, historic organizations, the Sierra Club, and equestrian groups.

Mr. Scalzo advised that the public outreach included the following activities:

- Five public meetings.
- Four newsletters.
- Four press releases and advertisements.
- A public information website and telephone line.

Mr. Scalzo reported that construction of the main entry station is scheduled to begin in September. He provided the status of other park projects as follows:

- Initial work has commenced on a multi-use trail and trailheads.
- Approximately 85 percent of the boundaries have been secured with fencing.
- Better controls have been instituted to prevent the illegal dumping of trash in the area.
- The majority of the mining claims have been resolved.

Mr. Scalzo reviewed the plans for the new building, which will include office space, public restrooms, parking areas, a customer service area for the sale of annual passes and permits, and a meeting area that will accommodate 30 to 40 people for training park personnel and for public educational and recreational program activities.

Mr. Scalzo advised that the major issues and constraints being addressed at this point in time include a problem with the Bureau of Land Management's Environmental Assessment, strong citizen opposition to a proposed competitive mountain bike track, and a conflict with Pinal County's Five-Year Transportation Plan.

Addressing the capital improvements proposed in the Master Plan, Mr. Scalzo outlined the following projects as the highest priorities:

- A family picnic area with restrooms.
- A family campground with restrooms and showers.
- A visitor's center and interpretive trails.

Mr. Scalzo summarized his presentation by noting that the Master Plan process is moving into the final stages, and that a future public meeting would complete the effort.

In response to a question from Mayor Hawker, Mr. Scalzo advised that the County Board of Supervisors has placed a proposed arrangement with the Gila River Indian Community for a conservation easement on hold.

Mr. Scalzo noted that the purpose of his presentation was to provide an update on the County's planning process and that no Council action is being requested.

Mayor Hawker thanked Mr. Scalzo for the update.

4. Acknowledge receipt of minutes of boards and committees.

- a. Board of Adjustment meeting held August 10, 2004.
- b. Human Relations Advisory Board meeting held June 23, 2004

Councilmember Griswold noted that a page was missing from the minutes of the Board of Adjustment meeting.

Mayor Hawker advised that the minutes would be considered for acknowledgment at a future meeting.

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

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| Vice Mayor Walters:     | Grand Opening of the Mesa Marriott Hotel.<br>Maricopa County Meeting with the Corps of Engineers.<br>Annual Mesa Town Center Bus Tour. |
| Councilmember Whalen:   | Meeting with Tempe Mayor Holman regarding future cooperation on various issues.  |
| Councilmember Griswold: | Meeting regarding the possible annexation of an area at the 202 Freeway and Val Vista Drive.   |

6. Scheduling of meetings and general information.

Deputy City Manager Debra Dollar stated that the meeting schedule is as follows:

- Monday, August 30, 2004, 3:00 p.m. – Police Committee
- Monday, August 30, 2004, TBA – Study Session
- Monday, August 30, 2004, 5:45 p.m. – Regular Council Meeting
- Thursday, September 2, 2004 – Study Session - Cancelled
- Tuesday, September 7, 2004, TBA – Study Session
- Tuesday, September 7, 2004, 5:45 p.m. – Regular Council Meeting

7. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

8. Items from citizens present.

There were no items from citizens present.

9. Adjournment.

Without objection, the Study Session adjourned at 9:57 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 26<sup>th</sup> day of August 2004. 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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