

COUNCIL MINUTES

September 21, 2006

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 September 21, 2006 at 7:30 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

1. Hear a presentation, discuss and provide direction on the protocol relating to special events previously sponsored by the City of Mesa.

Acting Community Services Department Manager Patricia Sorensen introduced Acting Parks and Recreation Director Jenny Sheppard and Deputy City Attorney Al Smith. Ms. Sorensen noted that the City discontinued sponsoring special events due to budget constraints, which resulted in the elimination of two full time positions. She advised that a letter sent to organizations involved in past events advised that Parks and Recreation staff would only provide logistical information, create reservations and respond to inquiries regarding fees and procedures. Ms. Sorensen stated that some non-profit organizations have requested fee waivers and the "right of first refusal" relative to reserving space. She said that staff is requesting direction regarding these issues and the procedures to be followed when two organizations express an interest in sponsoring the same event.

Ms. Sheppard advised that a staff study group meeting with the Parks and Recreation Board resulted in a recommendation that non-profit groups applying to sponsor events at City of Mesa facilities be awarded extra points on a selection criteria form (see Attachment 1) for review by the Parks and Recreation Board. She added that they also recommended that non-profit organizations not be provided the "right of first refusal" or fee waivers. Ms. Sheppard explained that the Parks and Recreation Board would submit a recommendation regarding the event application to the Parks and Recreation Director who would ensure that proper notice was provided to all impacted departments, such as the Police Department, etc.

Ms. Sorensen added that the Parks and Recreation Board would make a recommendation when two organizations apply for the same event, and that the Parks and Recreation Director would make the final decision.

Councilmember Jones said that he disagreed with the recommendation for the reason that the City implemented reduced funding allocations to non-profit organizations. He stated the opinion that the proposal limits the ability of organizations to hold events that provide a great economic benefit to the community, and he suggested that the City make an effort to enhance the opportunities for non-profit organizations by waiving a portion of the park rental fee.

In response to a question from Mayor Hawker, Ms. Sheppard advised that the fee amount depends on the size of an event and the facility rented.

Deputy City Manager Debra Dollar advised that the City's costs to clean restrooms and other areas of the park at the conclusion of an event are included in the rental fees.

Councilmember Rawles expressed concern that the City was attempting to generate income from special events when the Council's intent was to eliminate the City's funding of special events. He stated the opinion that organizations should be charged for only direct costs, and he expressed concurrence with the comments made by Councilmember Jones.

Vice Mayor Walters noted that the Parks and Recreation Department charged rental fees for many events sponsored by non-profit organizations in the past, and that implementing fee waivers could apply to many other events sponsored by non-profit organizations. She suggested that the City waive fees for only those events for which City funding was eliminated in the budget reduction process, and she proposed that these organizations be provided access to existing City contracts for the rental of equipment such as port-a-johns and barricades.

Councilmember Griswold stated the opinion that a group that historically held an event should have "first right of refusal" relative to holding future events.

Councilmember Jones recommended that annual events impacted by the City's budget reductions be eligible for fee waivers and that an organization's proposal for a large, new event could be reviewed for consideration of fee waivers.

Mr. Smith advised that the Attorney's Office would have to investigate the policy from a discrimination viewpoint to determine whether fee waivers could be granted to some organizations and not to others. He noted that the courts have not invalidated "first rights of refusal" in cases where time, place and manner were substantiated.

Mayor Hawker noted that a non-profit organization's "first right of refusal" could prevent a corporate entity from sponsoring an event that might provide a greater benefit to the City. He stated the opinion that awarding extra points to non-profit organizations was a more equitable policy.

Ms. Sorensen advised that more than one non-profit organization might express an interest in sponsoring Cinco de Mayo. She reported that the private entity that sponsored the last Cinco de Mayo has indicated a willingness to collaborate with a non-profit organization for future events.

Mayor Hawker noted that the Council implemented the budget reductions, and he stated that he is not interested in subsidizing these events in a different manner.

Ms. Sheppard stated that the fees are not intended to enhance City revenues. She advised that the fees address the cost of staff time related to the event, and she noted that the parks require substantial maintenance following an event attended by 10,000 people.

Councilmember Rawles stated that City parks exist for use by the citizens. He noted that the City does not charge for the use of a roadway for a Veterans' Day Parade, and therefore a fee should not be charged for the use of a park. Councilmember Rawles expressed the opinion that awarding preference points to an organization with a historical connection to an event is not discriminatory.

Ms. Sorensen advised that non-profit and "for profit" organizations have always been charged the same fees for park rentals in the past.

Vice Mayor Walters questioned whether waiving fees actually increased the costs that the Council was attempting to eliminate in the budget reduction process, and she suggested that the proposal be implemented on a trial basis. She noted that the only aspect of the Fourth of July Celebration supported by the City was providing access to the City's contracts for barricades and port-a-johns.

Ms. Sorensen noted that in the past the Mesa Amphitheater rental fee for the Constitution Day event was not waived, but rather was paid by the City through the Special Events budget.

Vice Mayor Walters requested that the Council receive additional information regarding the impact of waiving fees to ensure that budgeted revenues are not eliminated, which could result in increased costs to the City.

Mr. Brady stated that the fees are an attempt to recover the City's direct expenses relative to a specific event. He noted that the City incurred costs for police officers to direct traffic for the Fourth of July event, and he anticipated a similar expense for the Veterans' Day Parade. Mr. Brady suggested that staff could identify for the Council the specific costs to the City associated with each event. He noted that because positions previously responsible for event coordination were eliminated, other individuals are taking on that responsibility, which results in various duties not being performed.

Vice Mayor Walters noted that in the past, City staff served as a partner with the non-profit organizations in holding these events, and she added that the City's assistance would no longer be available. She expressed support for charging an event for the direct expenses incurred by the City, and she requested information regarding the costs and the impact on the budget reductions implemented by the Council.

Councilmember Whalen explained that police officers are prohibited from volunteering in the jurisdiction in which they are employed.

Ms. Sorensen said that staff will determine the City's direct event-related costs, and she requested clarification of the Council's direction regarding the "first right of refusal."

Councilmember Jones stated the opinion that non-profits with a historical connection to sponsoring an event should be provided the "first right of refusal," and he further stated that the Sister Cities organization should be provided the opportunity to sponsor the Cinco de Mayo celebration.

Mayor Hawker advised that his support of Sister Cities' sponsorship of Cinco de Mayo is dependent on clarification of the organization's status, whether it is a private social organization or an organization tied to government.

Councilmember Jones noted that the Sister Cities organization sponsors Tempe's Oktoberfest as a fundraising event, and he added that the event also provides a great economic benefit to the City of Tempe.

Deputy City Attorney Alfred Smith advised that the courts generally accept a "first come, first served" policy, and he expressed concern that prior sponsorship of an event is not a legal standard generally accepted by the courts. He stated that the Attorney's Office would conduct additional research and provide assistance to staff in drafting a policy. Mr. Smith confirmed that the City could deny permission to an organization based on problems with past performance.

Vice Mayor Walters, referring to earlier comments regarding the inability of Mesa police officers to volunteer police-related services in the City, advised that the Federal *Fair Labor Standards Act* prohibits employees from volunteering in the same position for which the employee is paid.

Mayor Hawker summarized the discussion by stating that staff has direction regarding the identification of direct and indirect costs.

Councilmember Somers said that he and Councilmember Griswold are assisting in the effort to plan the Veterans' Day Parade, and he requested that staff monitor the cost of their time related to the Parade.

Councilmember Rawles stated the opinion that City staff should not be involved in coordinating events. He further stated that the City's involvement should be restricted to granting permission to an organization to hold the event.

Councilmember Somers explained that staff is simply providing contact information for barricades and other related items. He added that a member of City staff also attends a weekly meeting regarding the Parade.

Councilmember Rawles stated the opinion that City staff members should not attend weekly meetings for a private event.

Mr. Brady explained that the City has a responsibility when an event closes major thoroughfares or a public park and that carrying out that responsibility requires a certain amount of City staff time. He noted that the City's involvement has been reduced, and he said that this year would involve a transition process.

Discussion ensued relative to the fact that a City police vehicle and fire truck participated in past Veterans' Day Parades; and that the Financial Services Department is aware of the items that constitute the reduction in Special Events funding.

Councilmember Rawles summarized that the Council's direction to staff is that non-profit organizations historically associated with an event should have the "right of first refusal;" that when no historically-associated organization applies for an event, the selection criteria would be utilized; and that the City's direct costs are to be recovered to the same extent as in the past.

Mayor Hawker thanked staff for the presentation.

2. Hear a presentation, discuss and provide direction on the aquatics program and quality of life funds.

Ms. Sorensen advised that staff is recommending changes to the list of swimming pool projects approved by the Council in June 2005 (see Attachment 2). She reported that the Smith Pool project was placed on hold in November 2005 due to budget constraints and that the Carson Pool is presently under construction. Ms. Sorensen explained that the proposal includes postponing the outdoor aquatic center project, reallocating Quality of Life capital funds for the renovation and repair of the existing Rhodes, Poston and Taylor pools, and resuming construction of the Smith Pool.

Ms. Sheppard advised that the Carson Pool project, anticipated to be complete in April 2007, is on schedule and within budget. She displayed pictures (copies are available for review in the City Clerk's Office) of the deteriorating conditions at the Poston, Rhodes and Taylor pools.

Mr. Brady stated that at his request staff reviewed the status of the City's pools, which resulted in the current proposal to defer construction of the outdoor aquatic center in order to fund the repairs at the Poston, Rhodes, and Kino Pools and to resume construction of the Smith Pool project in East Mesa. He reported that the \$500,000 allocated for contingencies might be insufficient as construction costs continue to increase. Mr. Brady added that Operating and Maintenance (O&M) funds for the outdoor facility could be reallocated for other purposes, such as the new court facility, and that O&M expenses for the existing pools are already in the budget.

In response to questions from Councilmember Jones, Assistant Parks and Recreation Director Terri Palmberg advised that the pool facilities on staff's priority list would be realigned to maximize the available space for spectators. She noted that many of the City's existing pool facilities are "land locked," and she added that staff would provide additional information regarding the design plans to accommodate spectators.

Responding to a question from Mayor Hawker, Ms. Palmberg said that the existing pools are not of a legal depth for use with the starting blocks, and she confirmed that the pools would include a completely new footprint. She noted that the Construction Manager at Risk (CM@Risk) process resulted in reducing the costs of the Carson Pool to \$4.2 million.

Financial Services Manager Bryan Raines clarified that the total cost of the Carson Pool is \$4.7 million and that the Mesa Public Schools contributed the difference of \$500,000.

Further discussion ensued relative to the fact that Mesa Public Schools would contribute \$500,000 to the Smith Pool project, in addition to providing the land and paying the utilities; that shade structures for the spectator spaces are included in the redesign features; that the costs to locate a pool at Smith are less than the costs to locate a pool at Skyline Park; that the Skyline Park site has challenges relative to the amount of available space; and that staff would provide the Council with a comparison of the Smith and Skyline locations.

Mr. Raines confirmed that the \$25.1 million in Quality of Life funds is available from the capital expenditure fund designated for aquatic facilities.

Councilmember Rawles expressed support for the realignment of priorities as proposed by staff.

Councilmember Griswold expressed support for the Smith Pool, and he suggested that the area be annexed into the City;

Councilmember Somers expressed support for staff's proposal and for the construction of additional pools in East Mesa.

Mayor Hawker also expressed support for the proposed change in priorities.

Ms. Palmberg noted that the Smith Pool might not be available in the summer of 2008 if the process is delayed.

Councilmember Jones expressed support for moving forward with the Smith Pool, and he added that the shading for spectators should include consideration of positioning the canopies to block the sun from the spectators' eyes in addition to the overhead shading.

Councilmember Whalen suggested that the Council delay a decision on the Smith Pool in order to include modifications that would enable multi-team, regional competitive events to be held at the pool.

Ms. Palmberg stated that Smith would be of legal depth and size for competition, but that it would not be of sufficient size to hold multi-team competitive events.

Vice Mayor Walters stated the opinion that the eastern area of Mesa requires a pool of sufficient size to hold multi-team competitive events. She further stated that the Council should discuss the Smith Pool further before making a decision.

In response to a question from Councilmember Rawles, Mr. Brady advised that at the time the Council requested that the Smith Pool project be placed on hold, the entire program was halted except for the Carson Pool project. He advised that staff would now move forward with the proposal except for the Smith Pool project.

Ms. Palmberg explained that Maricopa County mandated the revised depth requirement for the swimming pools. She advised that the projects would not be completed in time for next summer's swimming season, and that staff would make adjustments to enable the summer program to continue.

Councilmember Griswold noted that the voter-approved funds specifically address aquatic projects and the City is unable to utilize the funds for other projects.

Mayor Hawker thanked staff for the presentation.

3. Discuss and provide direction on the new Court building, including project scope and budget, as recommended by the General Development Committee.

City Engineer Keith Nath provided a brief overview of previous discussions related to the proposed new court facility. He noted that the table titled "Mesa Municipal Court Facility – Required Project Size & Budget" (see Attachment 3) listed the available options. Mr. Nath advised that the following documents (copies are available for review in the City Clerk's Office) were provided to the Council as attachments to the September 18th City Council Report:

- "Judicial Needs Assessment Report"

- “Project Size and Budget and Methodologies Tables”
- “Court Documentation in Response to Council Questions”
- “Responses to Questions/Issues Raised by Council”

Mr. Nath reported that although the General Development Committeemembers disagreed on several issues, the Committee agreed to move a recommendation forward for Council consideration for a project consisting of ten courtrooms with support space for twelve courtrooms at a cost of \$37,456,000.

Councilmember Rawles, Chairman of the General Development Committee, advised that two Committeemembers preferred the proposal for ten courtrooms with support space for twelve courtrooms at an additional cost of \$3.85 million, and that the third Committeemember favored a plan to construct twelve courtrooms. He noted that the Committee unanimously recommended to allocate the sale proceeds of the Tri-City site to the cost of the new court facility. Councilmember Rawles added that the Committee’s discussion of increased court fees raised a concern that substantial increases could result in lower collection rates and a negative impact on revenues. He noted that another funding source discussed by the Committee was Quality of Life funds previously directed to the proposed aquatic facility. Councilmember Rawles proposed another alternative that would construct a facility consisting of ten courtrooms (standard) with a 2,000 square foot reduction in the public circulation area and including the support space for twelve courtrooms, which would lower the cost estimate to approximately \$36.5 million.

Mr. Nath reported that staff discovered a discrepancy in the bond funds designated for the court facility, and he advised that the bond election authorized \$32.9 million rather than the \$33.6 million originally stated.

Vice Mayor Walters expressed appreciation for the efforts of staff and Chairman Rawles in addressing this issue. She stated the opinion that space problems with the existing court building could have been avoided through better planning. Vice Mayor Walters suggested that Quality of Life funds and the sale proceeds for the Tri-City building would enable the City to construct ten courtrooms with support space for twelve courtrooms and plan a footprint for fourteen courtrooms.

Discussion ensued relative to the fact that construction and design of a ten-courtroom facility should not preclude a future expansion to fourteen courtrooms; and that planning for future expansion would not incur additional design costs.

Councilmember Whalen expressed support for the construction of ten courtrooms with support space for twelve courtrooms. He also expressed concern relative to increasing the court’s fees to a level substantially higher than the fees of other communities.

Councilmember Jones stated that he would support the recommendation of the General Development Committee.

Mayor Hawker concurred with the comments of Councilmember Jones in support of the Committee’s recommendation.

Presiding City Magistrate Matt Tafoya advised that the consultants retained by the City, who are national experts in this area, are recommending the construction of a larger court facility. He noted that the cost of construction would be more expensive in future years. Judge Tafoya requested an opportunity to provide information to the entire Council.

Councilmember Rawles advised that the entire Council received copies of the General Development Committee meeting minutes, which includes the information presented by the consultants, but he added that he would not object to receiving additional input.

Ron Taylor, a principal with the Omni Group, addressed the Council and stated that his consulting firm prepared the needs analysis report on the court facility. He advised that a logical approach is to address the needs of the court in an initial ten-year timeframe, and he added that their recommendations recognize the fact that the size of the facility is limited by the funding available. Mr. Taylor stated that five different methodologies were utilized to project future needs, and he advised that the results did not vary significantly through the year 2015. He said that a "phased" approach was advisable, and he clarified that future population projections include future annexation areas. Mr. Taylor concluded by stating that, subject to the availability of capital funding, his firm recommends the construction of a twelve-courtroom facility.

Financial Services Manager Bryan Raines displayed a chart (see Attachment 4) that lists the projected construction costs for ten courtrooms with support space for twelve courtrooms and the original City Court allocation for bond funding, which indicates a shortfall of \$4.586 million. He noted that the offsetting revenues from the Quality of Life funds and the sale proceeds of the Tri-City property would be supplemented by a court fee increase of \$1.45 per filing.

Councilmember Rawles stated the opinion that the population projection through the year 2015 is based on an artificial spike in the growth rate.

Court Administrator Paul Thomas suggested that a court fee increase be implemented in a round number to facilitate the administration process.

In response to a question from Councilmember Jones, Judge Tafoya said that a twelve-courtroom facility would address the needs of the community through 2020.

Mr. Taylor noted that the needs analysis indicates a requirement for twelve courtrooms through 2015 and that the ability to expand to fourteen courtrooms would meet the needs of the community in the year 2025. He stated that his firm does not recommend the initial construction of fourteen courtrooms.

Mr. Raines advised that the increased court user fee would remain in effect until the court-related bond debt has been paid.

Mr. Thomas clarified that the City has a general court user fee of \$22.50, subject to state surcharges, which goes directly to the General Fund. He explained that the additional \$15 fee, which increases by \$3 every three years, is a court construction fee. Mr. Thomas added that an additional fee could be levied to address future construction costs.

Councilmember Somers referred to Attachment 4 and expressed concern regarding the offsetting revenue assumptions. He noted that the Tri-City property has been estimated at a higher value, but he added that the City does not presently have a prospective buyer.

In response to a question from Councilmember Somers, City Attorney Debbie Spinner quoted the Quality of Life ballot language as follows, "...that it can be used for ongoing expenses for these and corresponding health, safety and quality of life projects." She advised that expenditures for a court facility qualify for Quality of Life funding.

Councilmember Somers said he would support the construction of a ten-courtroom facility with support space for twelve courtrooms. He also expressed support for increasing court fees to address the cost of future expansion requirements.

Councilmember Griswold complimented Judge Tafoya for his efforts to move cases quickly. He expressed support for the Committee's recommendation for a building with ten courtrooms and support space for twelve courtrooms.

Responding to a question from Mayor Hawker, Mr. Nath advised that the Real Estate Division estimated the vacant land to be valued at approximately \$14 to \$17 a square foot.

Councilmember Rawles stated that the consensus of the Council seems to favor the proposal for ten courtrooms with support space for twelve courtrooms, and he advised that he would support that proposal. He also expressed the opinion that the estimated Tri-City sale proceeds are substantially understated, and he suggested that the Council delay consideration of an additional fee to address future expansion until the sale of the Tri-City property is complete. Councilmember Rawles clarified that he supported the current proposal for a \$1.50 fee increase, but prefers to delay Council consideration of an increase above that amount for a reserve fund to address future expansion.

City Manager Christopher Brady explained that the \$15 fee increases by \$3 automatically every three years, and that the proposed \$1.50 fee increase is in addition to that fee. He added that the Council could amend the fees at a future date to establish a reserve fund.

Councilmember Whalen suggested that future court fees address the general area of Public Safety. He noted that the future projects include remodeling the existing courthouse for use by the Police Department and the construction of a crime laboratory and evidence facility.

Mayor Hawker said that the consensus of the Council is to move forward on the proposal for ten courtrooms with support space for twelve courtrooms, and that the Council could consider increasing fees at a future date.

Additional discussed ensued relative to the fact that the court is included in the Public Safety impact fee; and that the current impact fee study regarding the methodology could result in increased fee revenues.

Mayor Hawker stated that staff has direction on this issue, and he thanked the General Development Committee and staff for their efforts.

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

- a. General Development Committee meeting held September 14, 2006.

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

Carried unanimously.

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

Mayor Hawker: Update on Maricopa Association of Governments (MAG) plans regarding freeways and funding.
Councilmember Somers: Urban Land Institute Meeting in Mesa.
Councilmember Jones: Constitution Celebration.
Councilmember Griswold: Tour of the Serrine Adult Day Care Center.

6. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Thursday, September 28, 2006, 7:30 a.m. – Study Session

Thursday, September 28, 2006, 8:00 a.m. – General Development Committee

Tuesday, October 3, 2006, TBA – Study Session

Tuesday, October 3, 2006, 5:45 p.m. – Regular Council Meeting

Thursday, October 5, 2006, 7:30 a.m. – Study Session

Thursday, October 12, 2006, 7:30 a.m. – Study Session

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 9:50 a.m.

KENO HAWKER, 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 21st day of September 2006. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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Attachments (4)