



COUNCIL MINUTES

June 27, 2011

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 27, 2011 at 4:48 p.m.

COUNCIL PRESENT

Scott Smith
Alex Finter
Christopher Glover
Dina Higgins
Dennis Kavanaugh
Dave Richins
Scott Somers

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

1. Review items on the agenda for the June 27, 2011 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items removed from the consent agenda: None

2-a. Hear a presentation, discuss and provide direction on the Federal Environmental Compliance Fee.

Environmental and Sustainability Division Deputy Director Scott Bouchie reported that this item was a follow-up to the June 23, 2011 Study Session regarding the Federal Environmental Compliance Fee (ECF).

Mr. Bouchie displayed a document titled "Mandates Funded by the ECF" (**See Attachment 1**) and explained that the projected cost of Federal/State mandates for FY 2011/12 was \$10.4 million; that the current \$3.00 ECF generates \$5.8 million annually; and that \$4.6 million in additional funding was necessary in order for the City to meet the environmental mandates. He noted that with respect to the \$4.6 million, the Local Streets Fund is required to fund \$3.2 million in environmental mandates, resulting in \$1.4 million in unfunded needs.

Councilmember Richins stated that for the benefit of the Councilmembers who were not in attendance at the June 23rd Study Session, staff recommended a \$2.38 increase to the ECF, for a total of \$5.38 per utility account per month, in order to make up the \$1.4 million in unfunded environmental mandates. He suggested that staff add language to the utility bill that clearly reflects that the fee would be used to pay for unfunded environmental mandates that have been passed down to the City of Mesa from Federal/State governmental agencies. Councilmember Richins also noted that if Mesa utility customers disagree with the additional cost, he would encourage them to contact their State and Congressional representatives. He added that he was supportive of staff's recommendation simply because the City had no alternative funding source at this time.

Councilmember Kavanaugh concurred with Councilmember Richins' comments and stated that staff's proposal was a reasonable way for the City to seek funding to comply with the environmental mandates.

Mayor Smith commented that in the unlikely event the State reversed itself and did not require the City to fund the Arizona Department of Environmental Quality (ADEQ), he would be more than happy to roll back the proposed fee increase.

Vice Mayor Somers inquired if there was language that could codify Mayor Smith's comments, i.e., if the State were to fund the currently unfunded environmental mandates and the burden was no longer on the City, that the City would be able to automatically roll back the proposed fee on the utility bill.

City Attorney Debbie Spinner responded that the Council has expressed that intent now, but said that it would be necessary to bring back this item to the Council in order to modify the Resolution.

Responding to a question from Vice Mayor Somers, City Manager Christopher Brady clarified that each year as part of the budget process, staff could review with the Council the unfunded State/Federal environmental mandates.

Mayor Smith suggested that those discussions be included as a report to the Council. He also remarked that if funding became available to the State to pay for certain environmental mandates, the burden would be upon the City to adjust the ECF accordingly.

Mayor Smith stated that it was the consensus of the Council that staff move forward with their proposal to increase the ECF as outlined above.

Mr. Brady stated that staff proposes to include this item on the July 7, 2011 Regular Council meeting agenda for Council adoption.

Mayor Smith thanked staff for the presentation.

2-b. Hear a presentation, discuss and provide direction on a Convenience Store Ordinance.

Vice Mayor Somers stated that the Council has struggled with this issue for quite some time and thanked staff from the Mesa Police Department (MPD) and the City Attorney's Office for their continued support and hard work in this regard. He explained that the City was attempting to

apply the Convenience Store Ordinance equally and fairly to all convenience stores, and yet not create a burden on those businesses that operated in a proper manner and did not generate excessive calls for Police service. Vice Mayor Somers also remarked that the Convenience Store Ordinance (Revised Option), which will be outlined by Acting Assistant to the City Manager John Pombier, was an equitable solution that the convenience store industry and the Council could agree upon and would also reduce the occurrence of crime at convenience stores. He added that staff would continue to review the success of the program over time.

Mr. Pombier reported that subsequent to the June 2, 2011 Study Session when staff was asked to go back and review the variance option included in the proposed Convenience Store Ordinance, staff met with the Police Department, stakeholders, convenience store operators, and the Mesa Chamber of Commerce. He explained that during those discussions, staff not only considered the variance issue, but also made several changes to the document in an effort to build consensus among all of the parties involved in this issue.

Mr. Pombier highlighted the proposed changes to the Ordinance as follows:

- Per Title 6, Chapter 22, Section 10(B), any convenience store that had an average of 30 calls for Police service per year, based on “a snapshot” of Police data for the preceding four years, must comply with all security measures previously recommended by the Police Department. The Police Chief would continue to monitor the number of calls for service of those stores that implemented the required security measures.

Responding to a question from Mayor Smith, Mr. Pombier stated that he was confident that the measure of 30 calls or more for Police service would address those convenience stores that create the greatest burden for the City and the biggest risk for the community.

- Convenience stores with 29 or less calls for Police service over the last four years must register and provide an inventory of the security measures they are currently utilizing. The Police Department would have “a snapshot in time” of the number of calls for service and what security measures are working for those businesses. The “snapshot” would be a one-time occurrence and would not be conducted every year unless staff was directed by Council to do so.
- Title 6, Chapter 22, Section 12 “Alternative Security Plan,” would eliminate the variance option. If an existing convenience store cannot meet one or more of the security measures required by Title 6, Chapter 22, Section 10, the Police Chief can approve an Alternative Safety and Security Plan. Such efforts would protect the security and safety of store employees and customers.
- In determining whether to approve/disapprove the request for an Alternative Security Plan, the Police Chief would consider the following criteria: proposed security measures; number of calls for service at the store; type of calls for service; cost of compliance with security measures; overall safety and security issues in the surrounding neighborhood. Store owners who disagree with the Police Chief’s decision can file an appeal with the City Manager or his designee.

Councilmember Kavanaugh commended Vice Mayor Somers, City Attorney Debbie Spinner, Mr. Pombier and the MPD for their efforts and hard work over the past few weeks. He stated

that his concerns with respect to the Ordinance have been addressed by the work they have accomplished and added that the revised Ordinance highlighted by Mr. Pombier meets the goals that the Public Safety Committee initially established in this process.

Councilwoman Higgins stated that with respect to the convenience stores that had 29 or less calls for Police service in the preceding four years, she suggested that the owners/operators meet with a Police Department representative to conduct a Crime Prevention Through Environmental Design (CPTED) evaluation of their stores. She noted that the owners would not be required to take any action, but would be afforded the opportunity to learn whether there were “gaps” in their Security Plans.

Mr. Pombier responded that the Police Department already offered such services to convenience store owners/operators.

City Attorney Debbie Spinner said that staff proposes that the Convenience Store Ordinance (Revised Option) be placed on the July 7, 2011 Regular Council meeting agenda for introduction, with Council adoption of the Ordinance set for July 14, 2011. She noted that it was necessary for her to make a few formatting changes to the document, but assured the Council that the substance of the Ordinance would remain the same.

Mayor Smith thanked Vice Mayor Somers, staff and all the stakeholders for their efforts and hard work in this regard.

3. Acknowledge receipt of minutes of various boards or committees.

3-a. Community & Cultural Development Committee meeting held June 2, 2011.

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

Carried unanimously.

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

Councilmember Kavanaugh:	“Fit Kids” Pool Party at Rhodes Junior High
Vice Mayor Somers:	American Red Cross Scientific Advisory Council meeting
Councilwoman Higgins:	Ribbon Cutting Ceremony at Sunshine Acres
Mayor Smith:	Attended dedicatory mass at All Saints Catholic Church

5. Scheduling of meetings and general information.

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

Thursday, June 30, 2011, 7:30 a.m. – Study Session

Friday, July 1, 2011 and Saturday July 2, 2011, 6:00 p.m. – Arizona Celebration of Freedom

Thursday, July 7, 2011, 5:45 p.m. – Regular Council Meeting

Thursday, July 14, 2011, 5:45 p.m. – Regular Council Meeting

6. Prescheduled Public Opinion Appearances.

6-a. Hear from Penny Higginbottom regarding water bill.

There were no prescheduled public opinion appearances.

7. Adjournment.

Without objection, the Study Session adjourned at 5:14 p.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 27th day of June 2011. 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)



Mandates Funded by the ECF

- Cost of Mandates \$10.4 mil
- ECF Current Funding \$ 5.8 mil
- Not funded by ECF \$ 4.6 mil
- Local Streets Fund required to fund environmental mandates \$3.2 mil
- Remaining funds needed to comply with environmental mandates \$1.4 mil