



COUNCIL MINUTES

June 4, 2012

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 4, 2012 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

1. Review items on the agenda for the June 4, 2012, 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

Items deleted from the consent agenda: 4-a; 5-u

2-a. Hear a presentation, discuss and provide direction on proposed Mesa City Charter changes including, but not limited to:

1. Date of Elections
2. Term of Mayor and Councilmembers
3. Succession policy in the case of a vacancy in the Office of Mayor
4. Capital Program

City Attorney Debbie Spinner reported that staff made two presentations to the Government Affairs Committee to discuss possible Mesa City Charter amendments. She stated that the Committee recommended that the Council consider four Charter amendments as follows:

- **Section 701(A) – Date of Election** - The City Charter currently conflicts with State law with respect to election dates. The amended provision would read: “The Council shall, by ordinance, set election dates for the City of Mesa. If the Council does not adopt an ordinance, election dates for the City shall follow State law.”
- **Section 201(C) and (D) – Term of Councilmember and Mayor** – This section of the City Charter also conflicts with State law, which several years ago changed the election dates to August/November and the commencement of the term to begin in January. The proposed language for the provisions would read: “The term of Councilmember/Mayor shall be four (4) years or until their/a successor is elected and qualified. Commencement of the term shall be set by the City Council, by ordinance. If the Council does not adopt an ordinance, commencement of the term shall follow State law.”
- **Section 605(A) – Capital Program** – Current City Charter language indicates that the City Manager shall prepare and submit to the Council a five (5)-year capital program by March 1 of each year. The proposed language would read as follows: “Prior to the beginning of each fiscal year, the Manager shall prepare and submit to the Council a five (5)-year capital program.”

Ms. Spinner explained that with regard to **Section 203 – Mayor and Vice Mayor**, the City Charter currently states that if the office of Mayor becomes vacant, the Vice Mayor will serve as Mayor for the remainder of the term. She said that it was the recommendation of the Committee that the provision be amended as follows: “If the office of Mayor becomes vacant with less than two (2) years remaining in the term, the Vice Mayor shall serve as Mayor for the remainder of the term. If the office of Mayor becomes vacant with more than two (2) years remaining in the term, the Vice Mayor will serve as Mayor Pro Tempore until an election is called and a new Mayor is elected.”

Ms. Spinner noted that the Councilmembers would have some discretion concerning the proposal in that they could allow the office of Mayor to be filled at the next Council election or by a Special Election. She emphasized, however, that the election must be held within a year.

Ms. Spinner further remarked that the Committee’s recommendation is similar to the Phoenix model, which requires that citizens wishing to run for the office of Mayor must declare themselves a candidate within ten days of when the vacancy occurs. She pointed out that such action would give the Council some certainty with respect to which Councilmembers and/or Mesa residents wish to run for the office of Mayor. Ms. Spinner added that vacant District Council offices will be filled as described in Section 206.

Councilwoman Higgins commented that she did not recall the Government Affairs Committee recommending that all candidates for the office of Mayor declare their candidacy within ten days from the date the vacancy occurs.

Ms. Spinner responded that in reviewing an audio recording of the May 21, 2012 Government Affairs Committee meeting, the Committee expressed interest in establishing a timeframe with regard to the election in terms of a Special Election and/or a Council election. Ms. Spinner added that it was at the Council’s discretion whether they would prefer to amend or eliminate this provision.

Mayor Smith stated that whether ten days is too short a period of time or the timeframe is increased, for instance, to 20 days, the idea is that a Councilmember would not be “gaming the

system” by waiting until the last minute to declare his/her candidacy based on signature requirements. He noted that once a Councilmember declares his/her candidacy for the office of Mayor, the individual would be required to resign if the person had more than one year remaining in his/her term of office, whereas a Councilmember currently serving the last year of his/her term of office would not be required to do so.

Ms. Spinner reiterated that if it were the direction of the Council that the ten-day deadline is too short a period of time for a Councilmember to declare his/her candidacy for the office of Mayor and resign from District Council office, staff would be happy to amend such language.

Vice Mayor Somers commented that if a Councilmember resigned to run for the office of Mayor, such action could potentially impact “another race downstream,” which is why he was supportive of the ten-day deadline.

Mayor Smith remarked that it would be more appropriate for a Councilmember to declare himself/herself as a candidate for Mayor in a timely manner and resign from his/her District Council office. He said that would then allow an election for the District Council office vacancy and the office of Mayor to be held concurrently.

Councilwoman Higgins inquired why the City Charter does not contemplate the option of a Councilmember declaring his/her candidacy for the office of Mayor, for example, 45 days before the deadline to file nomination petitions.

Councilmember Richins stated that he would like to avoid the “temporary placeholder warm body effect” of the Council appointing an individual to a District Council office that becomes temporarily unfilled due to the ascension of the Vice Mayor to Mayor Pro Tempore. He commented that with the “learning curve” that is required of a citizen to effectively serve on the Council, he questioned whether such an appointment is an appropriate option and added that in his opinion, it would not serve the Council District well.

Councilmember Glover clarified that one of the Committee’s rationales behind the option is to provide stability for the Council so that there would be seven voting members.

In response to a question from Councilwoman Higgins, Ms. Spinner clarified that if the Council wanted to fill a vacant District Council office by an election, it may be necessary to revise the language in Section 206. She said that currently, the City Charter does not contemplate a Special Election to fill a vacant Council position.

Ms. Spinner reviewed Section 206(C) as follows: “In the event of a vacancy in the Council which occurs ten (10) days or less prior to the final date for filing nomination petitions for the next succeeding election, the Council may appoint a qualified person to serve for the unexpired term. If the vacancy occurs more than ten (10) days prior to the final date for filing nomination petitions for the next election, the Council may appoint a qualified person to serve until the office is filled at the election.”

Ms. Spinner pointed out that with respect to Councilwoman Higgins, her Council seat, which was for a two-year unexpired term, was filled at the next Council election, but not a Special Election.

Mayor Smith commented that staff and the Council seem to be dealing with semantics and remarked that any time an election is held before a term of office expires, it is considered a Special Election.

Ms. Spinner concurred with Mayor Smith's statement, but pointed out that as the City Charter is currently written, the Council could not call a Special Election in March to fill the office of Mayor and a District Council office.

Ms. Spinner, in addition, reported that the City Charter currently contemplates that the Vice Mayor would automatically assume the office of Mayor and that there would be no election for the office of Mayor. She further noted that the City Charter only dealt with the issue of how to fill a vacancy for a Councilmember.

Mayor Smith inquired whether it would be appropriate for the Council to have the ability to call a Special Election not only to fill the office of Mayor, but also a District Council office vacancy if a Councilmember resigns to run for Mayor. He stated that he would not anticipate additional costs to simply add the name of the District Council candidate to the Special Election ballot.

Councilmember Finter expressed support for the Mayor's suggestion. He also noted that for those Councilmembers who were not in attendance at the May 21, 2012 Government Affairs Committee meeting, City Clerk Linda Crocker advised that it would cost the City a minimum of \$600,000 to hold a Special Election. Councilmember Finter stated that it was important for the Council to understand that there were significant costs associated with such an undertaking.

Councilwoman Higgins clarified that she would not support a Special Election if it was only to fill a District Council vacancy.

Vice Mayor Somers stated that it was important to remember that the proposed City Charter amendments would be submitted to Mesa voters who will ultimately approve them or not.

Mayor Smith stated that it was the direction of the Council that Ms. Spinner draft a proposed City Charter amendment that would allow the Council to call an election to fill the office of Mayor and any vacant District Council office that may result from a Councilmember declaring himself/herself a candidate for Mayor; that with respect to a normal District Council vacancy, the provisions would remain the same; and that at the June 7, 2012 Study Session, Ms. Spinner will bring back those items to the Council for discussion and consideration.

In response to a question from Councilmember Richins, Ms. Spinner clarified that if the Council would like to propose any of the City Charter amendments to the voters, they must adopt an ordinance, with July 2nd as the deadline for introduction and July 9th for adoption. She added that pending Council adoption of the ordinance, the Charter amendments would be placed on the November 6, 2012 ballot.

Councilmember Richins requested that Ms. Spinner create a flowchart to illustrate the process for filling vacant District Council offices under the proposed ten-day timeframe option.

Councilwoman Higgins also suggested that Ms. Spinner include an option that would require candidates for the office of Mayor to declare their candidacy within so many days before the deadline for filing nomination petitions.

Discussion ensued relative to the fact that State law currently allows four election dates (March, May, August and November); that the proposed City Charter amendments were designed to give the Council the discretion to look at the calendar, assess real life situations occurring at the same time, and determine the most appropriate timeframe to call a Special Election, while fulfilling the intent that the voters should have a voice in who serves as Mayor if the vacancy is for more than two years; and that following a Special Election, the winning candidate is generally seated immediately upon certification of the votes.

Councilmember Kavanaugh commented that with due respect to the work of the Government Affairs Committee, in his opinion, the City Charter is effective as currently written. He explained that during his previous tenure on the Council, Councilmembers resigned for various reasons, but noted that the Council was still able to function "fairly well." Councilmember Kavanaugh added that with respect to the Date of Election provision, regardless of the State Legislature's action, Mesa, as a Charter City, has a valid argument that the Council is in charge of the City's elections and can implement Charter changes by seeking voter approval for such changes.

Mayor Smith remarked that it was somewhat awkward that the City Charter differs not so much from State law, but from what currently takes place at the City. He cited, for instance, that the Charter reflects that the term of office of Councilmember shall begin at the first regular meeting of the City Council in June, and yet because the City holds its elections in November, the newly-elected Councilmembers are seated at the first regular Council meeting in January.

Mayor Smith also indicated that when Mesa changed to the August/November election cycle, the City's elections were included to be consistent with the partisan elections. He said that Scottsdale and Tempe have opted for the provision that if only two candidates file nomination petitions for Mayor or District Council Office, the candidates would bypass the primary election and proceed directly to the general election ballot. Mayor Smith noted that if two candidates run for office, they are included on the ballot for the August primary, which is a partisan election, which may or may not include all voters. He inquired if his fellow Councilmembers had any interest in pursuing such an option.

Mayor Smith noted that a majority of the Council were supportive of Ms. Spinner drafting proposed language with respect to the above-listed option.

Ms. Spinner clarified that per Council's direction, she would redraft the provision dealing with the vacancy for the office of Mayor and also draft language with respect to Mayor Smith's proposal that if less than three candidates file nomination petitions for Mayor or District Council Office, they would proceed directly to the general election ballot.

Ms. Spinner, in addition, inquired whether the Council was comfortable with her placing the proposed City Charter amendments related to Section 701(A), Section 201(C) & (D) and Section 605(A) on an agenda for introduction or if they would prefer that she bring back those items with the previously-mentioned draft language.

Mayor Smith suggested that Ms. Spinner bring back all of the proposed City Charter amendments to the Council for input. He added that the Council will also provide further direction with respect to the matter of candidates for the office of Mayor declaring their candidacy within ten days or perhaps an alternative timeframe.

Mayor Smith thanked staff for the presentation.

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

Councilmember Kavanaugh: Southwest Cinema Series at Dobson Ranch Library

Mayor Smith: A.T. Still University Pediatric Dental Clinic Ribbon Cutting Ceremony

4. Scheduling of meetings and general information.

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

Thursday, June 7, 2012, 7:30 a.m. – Study Session

5. Adjournment.

Without objection, the Study Session adjourned at 5:36 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 4th day of June 2012. 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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