

COUNCIL MINUTES

April 26, 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 April 26, 1996 at 7:31 a.m.

COUNCIL PRESENT

Mayor Willie Wong
Jerry Boyd
Pat Gilbert
T. Farrell Jensen
Dale Johnson
Jim Stapley

COUNCIL ABSENT

Joan Payne

STAFF PRESENT

C.K. Luster
Wayne Balmer
Cindy Barris
Neal Beets
Jack Friedline
Mike Hutchinson
Lars Jarvie
Barbara Jones
Sharon Joyce
Harry Kent
Ron Krosting
Jeff Martin
Frank Mizner
Ruth Anne Norris
Ellen Pence
Bryan Raines
Mindy White
Paul Wilson

OTHERS PRESENT

Phil Stapley
Randy Wood
Others

Mayor Wong excused Councilmember Payne from the meeting.

1. Hear a report concerning street improvements in the 2200 block of North Hall.

Public Works Manager Harry Kent referred to schematics/aerial displays and advised that the City recently received a letter from Phil Stapley and various neighbors stating concern that street improvements were never completed in the 2200 block of North Hall. Mr. Kent said that upon investigation, staff determined that a typical cul-de-sac configuration was not feasible and therefore proposed an alternate radius. Mr. Kent noted potential impacts of the modified radius and reported that Dr. Robinson, one of the neighbors, has indicated that this solution is unacceptable.

Mr. Kent outlined four options available to the City: a) request that affected property owners dedicate land and the City pay for the street improvements, b) retain the existing turnaround easement and revert to the use of a refuse truck with a rear loader, c) attempt to construct the cul-de-sac using the existing easement, which would place the improvements close to homes, and d) do nothing, which does not appear to be an acceptable solution. Mr. Kent stated that staff currently recommends pursuing the second option.

Mr. Kent advised that improvements were made without permits to Dr. Robinson's property and said that the City is currently reviewing the matter with the City Prosecutor.

Councilmember Stapley questioned the need to declare a potential conflict of interest. City Manager Charles Luster indicated that the agenda item is for informational purposes only, with no action to be taken by Council at this time.

Phil Stapley, 2325 North Hall, related comments expressed by neighbors. Mr. Stapley advised that he has purchased the property originally owned by Dr. Robinson, who has moved to the property to the north. Mr. Stapley said that he was advised when he purchased the property that an agreement concerning street improvements had already been determined. Mr. Stapley indicated a willingness to work with the City in developing a solution.

Discussion ensued concerning the existing turnaround easement, development of Dr. Robinson's property, and difficulties/costs associated with the use of a two-person refuse truck.

2. Hear and discuss the actions and inactions by the Legislature at the recently adjourned session.

Government Relations Coordinator Jeff Martin provided an overview of the 1996 legislative session and advised that a final report will be forwarded to Council once the Governor has finished signing remaining legislation.

Mr. Martin extended his appreciation to Speaker Mark Killian for his efforts on behalf of the City, particularly relative to transportation funding.

Mr. Martin highlighted various bills adopted by the Legislature (see attachment) and noted potential impacts on the City. Mr. Martin reviewed issues likely to be reintroduced next year.

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

There were no reports on meetings and/or conferences attended.

4. Scheduling of meetings and general information.

Mr. Luster advised that the transfer of the golf course at Williams Gateway Airport will take place today at 2 p.m.

Mr. Luster stated that the meeting schedule is as follows:

Thursday, May 2, 1996, 2 p.m. - Redevelopment Committee Meeting
Thursday, May 2, 1996, 4 p.m. - Policy Session

Friday, May 3, 1996, 7:30 to Noon - Budget Review Session

Monday, May 6, 1996, 7:30 to Noon - Budget Review Session
Monday, May 6, 1996, 5:30 p.m. - Regular Council Meeting

Thursday, May 16, 3:30 p.m. - Joint Utility/Finance Committee Meeting

Community Development Manager Wayne Balmer noted that a public hearing regarding the General Plan is scheduled for the May 6, 1996 Regular Council Meeting. Mr. Balmer briefly reviewed anticipated procedures for the public hearing.

Fire Division Chief Paul Wilson provided an overview of the Fire Department's Drowning Prevention campaign.

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

a. Hear from Randy Wood, owner of Woodshed II, regarding Proposition 200.

Randy Wood, owner of Woodshed II, a sports bar located at 430 North Dobson Road, stated concern relative to Proposition 200, which was adopted by Mesa voters at the March 26, 1996 Primary/Special Election. Mr. Wood said that he currently possesses a Series 12 license and that it would cost more than \$50,000 to obtain a Series 6 license, the only license eligible for a variance under the new measure. Mr. Wood commented that a large portion of his clientele are winter visitors who smoke and expressed the opinion that Proposition 200 will prevent him from competing with businesses in nearby communities. Mr. Wood requested that Council consider an amendment to Proposition 200 to assist business owners whose livelihood will be affected by the new law.

Discussion ensued regarding the facility layout of the Woodshed II and viable options concerning the ventilation system. Council noted difficulties in attempting to amend Proposition 200 since the measure was not implemented by the City but was initiated and approved by the citizens of Mesa. Staff indicated that the City will continue to review the effects of similar legislation in other cities.

6. Items from citizens present. (Maximum of three speakers for five minutes per speaker.)

There were no items from citizens present.

7. Adjournment.

It was moved by Councilmember Stapley, seconded by Vice Mayor Jensen, that the Study Session adjourn at 8:32 a.m.

Carried unanimously.

WILLIE WONG, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

Attachment

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 26th day of April, 1996. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 30th day of May 1996

BARBARA JONES, CITY CLERK

SCR. 1006. Mandatory Election Consolidation. We are pleased to report that this proposed constitutional amendment to mandate election date consolidation did not pass. We did have some anxious moments on both Friday and Saturday, however, when a vote was scheduled on the measure. The first vote was 18 aye to 39 no, and on reconsideration the vote was 24 aye to 31 no. Our thanks to all of you for your help in getting the necessary votes to defeat this measure; Secretary of State Jane Dee Hull played a key role in its defeat as well.

H. 2329. Election Amendments including Election Date Consolidation. This bill is on the Governor's desk awaiting signature, and upon signature will go into effect immediately since it carries an emergency clause. Although we opposed this bill vigorously and successfully defeated it early in the session, as an alternative to SCR 1006, it looked pretty good. Under the bill, you will be able to hold elections on four dates each year: the second Tuesday in March; the third Tuesday in May; the first Tuesday after the first Monday in November and the eighth Tuesday before the first Tuesday after the first Monday in November (early September). The big difference between this bill and the constitutional amendment is we have a mechanism through future legislation to resolve problems which may arise with the implementation of the consolidation.

H. 2339. Auto Sales; City Tax Exemption and other sales tax bills. As reported previously, the Governor has signed H. 2339. This measure will preempt your local sales tax code on several fronts, including sales of motor vehicles to nonresidents of Arizona for use outside the State if the vendor ships or delivers the motor vehicle to a destination outside the state. We were fortunate in defeating two other bills which would have affected your local sales tax more drastically including **H. 2340** which would have totally preempted the local tax and **H. 2233** on the Municipal Taxpayer Bill of Rights. We continue working with the business community on the taxpayer bill of rights as a possible voluntary amendment to the model tax code. We anticipate that the Municipal Tax Code Commission will discuss this in early Summer.

S.1072 LTAF Applications. As reported previously, the Governor signed S.1072 which deletes the requirement for cities and towns to "apply" for a share of the Local Transportation Assistance Fund (LTAF) monies each year and allows the State Treasurer's office to distribute the city and town share of these monies as they receive them instead of in equal payments each month. This enactment included an emergency clause and is in effect now. No resolution needs to be passed to apply for the monies for the next fiscal year.

S.1280. Prime Contracting Sales Tax. This was another of the end of session problem bills and for a while we were somewhat optimistic that the \$40 million to \$70 million price tag in the loss of **State** sales tax might even make the Legislature pause before passage. At the end, the best we and other opponents could do is get a delayed effective date of July 1, 1997. There is still a faint hope that the Governor might veto the measure. The bill fundamentally changes how prime contracting is taxed when the project involves the installation, assembly, maintenance or repair of machinery, equipment or tangible personal property not permanently attached to a building, road or other structure.

S. 1384. Tobacco Regulation. This bill, which would have preempted local authority to regulate the sale, distribution, advertising, promotion and display of tobacco products and the use of tobacco products in bars, was 'killed' by Speaker Mark Killian as he did not schedule the bill for a vote on the floor of the House. This is the second year in a row that the Speaker has refused to allow this preemptive measure to pass, and he deserves our thanks.

H. 2555. State Land Initiative. This bill passed in the final days of the session and the Governor is expected to sign it into law shortly. It allows the dedication of certain State lands for preservation, and a number of cities and towns expressed support for this measure.

S.1207. Contract Indemnity; Construction. The Governor has signed this bill into law. In its final version, this bill, gives us two more years to figure out whether indemnity (hold harmless) clauses can be included in construction contracts and contracts with architects and engineers and governmental entities. The bill includes a study committee to explore other options rather than the prohibition of the indemnity clauses. If no action is taken to repeal or amend it prior to its effective date of July 1,1998, the prohibition will affect all such government contracts.

H. 2455. Architects and Engineers. As you will recall, this bill was substantially amended to a form which made it considerably less objectionable. As finally passed and now signed by the Governor, this measure exempts modifications made to drawings, plans or design specifications pursuant to building code compliance reviews, field inspections and applicable design standards from the requirement that all modifications carry the seal of a professionally registered architect or engineer employed by or under contract with the city, town or other public agency.

HCR. 2021. Voter Approval of Debt; Streets. Although this measure passed the House with flying colors and the Senate Finance Committee unanimously, it was defeated on the Senate floor with a particularly decisive vote of 4 aye and 26 no. The vote had little or nothing to do with the merits of the measure; it was designed to send a message to the sponsor who had earlier prohibited action on a Senate bill through an unusual and highly controversial parliamentary maneuver. There is always next year!

S.1195. Dilapidated Building Abatement. The Governor has already signed this measure which provides for cities and towns to recover costs for cleanup of health and safety hazards when property owners do not take action by moving municipal liens into the first position behind payment of taxes.

S. 1276. Neighborhood Protection. The legislature passed this measure, and it is awaiting the Governor's signature. Among other items contained in the bill, it includes language that strengthens a city or town's ability to take abatement action against properties where crimes are committed on a repeated basis.

H. 2559. Neighborhood Revitalization. The Governor is expected to sign this measure into law which provides \$3.1 million in state funding for neighborhood improvement and youth programs. The bill includes \$1 million which will be distributed to local jurisdictions for summer youth employment and training programs.

H. 2378. Fireworks. The Governor vetoed this bill which would have allowed the sale and use of sparklers and other nonexplosive devices in Arizona. The bill provided that cities and towns could adopt ordinances outlawing their use within the city or town.

SCR. 1016. Civil Justice Bill of Rights. This measure was never voted on by the full House because of a lack of "yes" votes and as a result died. If this proposed constitutional amendment would have passed the legislature and been approved by the voters in the fall, it would have provided the Legislature with several principles to guide a reform of the civil justice system.

H. 2557. Development Moratoriums Limitations. The Governor is expected to sign this measure in the next few days. It establishes a process by which a city, town or county may declare a moratorium on construction and land development. The measure was backed by the Governor and Speaker of the House and while we never agreed to the bill on the principle of local authority, it was amended to address some of our concerns.

H. 2165 and HCR. 2002 Lower Court Reorganization. Neither of these measures made it to either floor for a vote but a great deal of committee discussion occurred on both. introduction of these bills resulted from a study conducted by the Supreme Court and would have provided for a state court system removing authority over local courts from local jurisdiction. This may not be the end of this issue.

H. 2260. State Mandates. This measure passed the House but was never heard in a Senate committee. It is unfortunate that the legislature is not willing to pass mandate legislation which is similar to the protection that they have received from Congress. This bill would have required a report showing the impact of legislation which included a mandate on a city, town or county and a separate vote on any bids including such a mandate - not too much to ask?