

COUNCIL MINUTES

October 21, 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 October 21, 2004 at 7:40 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. Hear an update regarding Domestic Violence Awareness Month activities.

Vice Mayor Walters reported that this month, the Domestic Violence Task Force has focused its efforts on the problem of domestic violence in Arizona, culminating in yesterday's press conference wherein Governor Janet Napolitano addressed such concerns. She acknowledged the presence of several Task Force members in the audience and also thanked her fellow Councilmembers and staff for wearing the "Stop Domestic Abuse" T-shirts commemorating Domestic Violence Awareness Month.

City Prosecutor John Pombier, Chairman of the Domestic Violence Council for the City of Mesa, voiced appreciation to all of the hardworking individuals throughout the community, the Council and staff for their efforts to bring forward the issue of domestic violence to the public's attention. He stressed that it is important to note that domestic violence is not just a family matter, but also a crime that should not be hidden or ignored.

2. Hear an update on various Water Resource issues:

Utilities Director Dave Plumb introduced Water Resources Coordinator Kathryn Sorensen and Management Assistant Colette Moore who were prepared to make presentations to the Council regarding the following issues.

a. Presentation on Water Resources Plan.

Ms. Sorensen referred to a document entitled "City of Mesa Water Resources Plan, October 2004" and provided a brief overview of the document. (The complete report is available for review in the City Clerk's Office.) She discussed, among other things, the history of Mesa's

Water Utility; the City's water supply and infrastructure development; reclaimed water; groundwater and water demand management; social and environmental considerations; supply and demand On Project; Off Project demand; and On Project and Off Project Demand and Supply during drought.

b. Update on the Pinal County Water Farms.

Ms. Moore directed the Council to a staff report entitled "City of Mesa Pinal County Water Farms Development Discussion" and offered a short synopsis of the key components contained in the document. Her comments included, but were not limited to, the following: that in 1985, the City purchased the farmland in Pinal County for the water rights associated with the land; that the water farms could potentially produce 30,000 acre-feet per year for 100 years; that in order for Mesa to make use of the water for municipal purposes, it would be necessary to retire existing irrigation grandfathered water rights currently used by agriculture to Type-I, non-irrigation grandfathered rights; that the most feasible option to make use of the pumped water would be to pipe it into the CAP canal where it could be delivered to a downstream user; hydrology issues associated with the quality and availability of groundwater in the future; the fact that the CAP has never allowed an external entity to discharge non-CAP water into the CAP canal; and legal and financial challenges that Mesa would encounter if it elected to develop the Pinal County Water Farms as a water resource for the City.

City Manager Mike Hutchinson commented that the intent of today's presentation was merely to update the Council on this issue. He explained that over the next six months to a year, staff would come back to the Council with suggestions regarding the most efficient and effective manner in which to manage the water farms. Mr. Hutchinson stressed that it is not his recommendation at this time that Mesa dispose of this valuable asset.

Vice Mayor Walters suggested that because the property is such an important asset to Mesa, that it may be appropriate for staff to provide routine updates to the Council regarding the matter.

c. Discuss and consider a request from the City of Coolidge regarding annexation of properties owned by the City of Mesa.

Williams Gateway AREA Manager Wayne Balmer reported that the City of Coolidge has filed an Annexation Petition for an area that includes several properties in Pinal County owned by the City of Mesa. He referred to a map of the proposed annexation area and explained that Coolidge would like to annex the property where the municipal airport is located in order to upgrade the airport and water system, and also to establish the surrounding area as an economic development center. Mr. Balmer stated that it is the recommendation of staff that the City proceed to sign the Annexation Petition. He also introduced Coolidge City Manager Bob Flatley who was prepared to respond to any questions the Council may have.

Discussion ensued relative to the fact that residential uses at the proposed annexation area would severely impact the economic development potential of the area and create future conflicts between the homeowners and the airport; and the fact that the Coolidge airport, which focuses on general aviation, is similar to Mesa's Falcon Field, but endeavors to develop in conjunction with Williams Gateway Airport.

Mayor Hawker expressed support for the annexation, but stated that it may be appropriate that the current zoning designations in Coolidge's Master Plan within the annexation area be modified in order to ensure the desired development in the vicinity of the municipal airport.

Mr. Balmer provided the Council with a brief analysis of the annexation area and the zoning designations included in the Coolidge General Plan.

Vice Mayor Walters concurred with Mayor Hawker's comments. She suggested that Mesa's Real Estate Department work with Coolidge officials in an effort to make the land use designations in their General Plan, and specifically in the area of Mesa's annexed property, more consistent with the proposed economic development potential of the area.

It was moved by Vice Mayor Walters, seconded by Mayor Hawker, that the Council support the signing of the Annexation Petition for the City of Coolidge.

Councilmember Griswold expressed support for the motion and also Coolidge's proposed planning efforts.

Further discussion ensued relative to the fact that Coolidge may assess a city property tax on Mesa's annexed property, but the amount would be reasonable and amicably determined between officials from both municipalities and subsequently presented to the Council for final approval.

Councilmember Thom voiced support for the motion with the stipulation that both municipalities "work out" an agreement regarding a property tax because she does not wish to increase Mesa's tax liability.

Mr. Balmer clarified staff's direction that the City proceed to sign the Annexation Petition this morning while Mesa and Coolidge develop a Pre-Annexation Agreement. He noted that if such an agreement cannot be reached, the City would withdraw its signatures up until the time of annexation. Mr. Balmer added that he is confident both municipalities can reach a mutually acceptable Pre-Annexation Agreement.

Vice Mayor Walters amended her motion to direct staff to proceed ahead with the signing of the Annexation Petition; that both municipalities work on any remaining issues in this regard; and that if at some future point in time the City of Mesa needs to withdraw the Annexation Petition, such matters would come before the Council for final approval.

Mayor Hawker seconded the amended motion.

Mayor Hawker called for the vote.

Carried unanimously.

3. Discuss and consider recommendations for filtering Internet access on Mesa Library public computers.

Acting Library Director Trisha Sorensen reported that the Library Board, per Council direction, was asked to look into the issue of Mesa Library's current practice of filtering public access computers. She explained that after reviewing information and soliciting citizen input, the Board

recommended that Mesa revise its current Library Internet Policy in order to be in compliance with Child Internet Protection Act (CIPA) requirements. Ms. Sorensen stated that to meet such requirements, it would be necessary for the Library to add Adult Content, Sex and Nudity to the list of categories filtered on all computers. She commented that the Board also recommended that patrons 18 years of age and older have the option of requesting that filters be turned off. Ms. Sorensen added that some Boardmembers felt that filtering blocks out legitimate as well as inappropriate sites and said that they wanted patrons to have the ability to access other sites if they were conducting legitimate research.

Ms. Sorensen referred to the October 20, 2004 City Council Report and provided an extensive analysis of the implementation of the Library Board's recommendations; the Library's current policy and practice relative to meeting CIPA requirements; the fiscal impact to the City associated with expanding filtering categories; and various alternatives for Council consideration regarding this issue. (The complete report is available for review in the City Clerk's Office.) She also commented that if the City is not CIPA compliant, it loses access to funding for technology projects from the Library Services Technology Act (LSTA).

City Attorney Debbie Spinner offered a brief synopsis of a 2003 Supreme Court case regarding the constitutionality of CIPA. She reported that it was the opinion of a majority of the justices that public library Internet sites can be filtered and that there is no violation of a patron's First Amendment right to do so. Ms. Spinner explained that the Court held that CIPA was constitutional; that public libraries can, but are not required to, filter public access computers; that if the facility chooses not to filter, it would become ineligible to receive LSTA funding; and that per CIPA, libraries may disable Internet access upon request, but it is not a requirement of the Act.

Mayor Hawker expressed appreciation to the Library Board for their efforts and hard work in this regard. He also requested input from his fellow Councilmembers.

Extensive discussion ensued among the Council and the pertinent comments/direction are as follows:

Vice Mayor Walters:

- The issue extends beyond Mesa's libraries being CIPA compliant to "what is the right thing to do."
- Suggested as an alternative that a computer be located at the Reference Desk so that individuals who are seeking to conduct legitimate research could have access to non-filtered materials, but also be closely monitored by staff.

Councilmember Rawles:

- Stated the opinion that Mesa's public libraries are competing with other venues that supply Internet access (i.e., Internet cafes) and that is not, in his opinion, an appropriate function of government.

Councilmember Thom:

- Remarked that many out-of-state patrons go to Mesa's libraries to check their e-mail by accessing the City's computers and stated that she does not see a reason to continue to provide such service.

Mayor Hawker:

- Supports Internet access at the library and would not want to see it eliminated.
- Supports filtering public access computers, but is concerned with the degree of filtering.
- There needs to be a mechanism to unblock the filters to gain access to legitimate sites.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that Mesa libraries filter public access computers to be CIPA compliant; that staff research her suggestion of placing a computer in close proximity, for example, to the Reference Desk or some other appropriate location in order for an individual to use an unfiltered computer for legitimate research purposes and still be monitored by staff, and that such options be brought back to the Council for further discussion and consideration.

Councilmember Rawles stated that in listening to Ms. Spinner's legal analysis of the 2003 Supreme Court case regarding CIPA compliance, his conclusion of her analysis is that there is at least a reasonable prospect that five of the justices would look at the motion Vice Mayor Walters just made (to filter everything) as "potentially unconstitutional." He expressed opposition to the motion for that reason, as well as his previously stated comments.

Ms. Spinner explained that she wanted Vice Mayor Walters to understand the motion she made, which was that the libraries be CIPA compliant. She explained that CIPA requires the filtering of all pornographic and other obscene materials, but added that CIPA also allows libraries to disable the filter. She explained that there are two issues for the Council to consider: 1.) CIPA compliant in terms of what information should be filtered; and 2.) Should the libraries be allowed to disable upon request.

Vice Mayor Walters expressed appreciation to Ms. Spinner for her explanation. She stated, for clarification purposes, that her motion was that Mesa libraries be CIPA compliant for filtering public access computers; that the libraries not be allowed to disable computers upon request; that staff be directed to research her previous suggestion of the placement of a computer near the Reference Desk, or some other appropriate location, and that they bring the issue back to the Council for further discussion and consideration.

Councilmember Jones expressed support for the motion and stated the opinion that "pornography has no place at the library." He also stressed the importance of library patrons, on a limited basis, having the ability to access legitimate sites for research purposes and yet still being closely monitored by staff.

Ms. Sorensen stressed that even with filtered computers, staff would continue to be vigilant in observing and approaching patrons who staff feel have logged on to inappropriate sites.

Vice Mayor Walters stated that Ms. Spinner asked her to consider what the Council had discussed previously and to include that issue in her motion. She explained that there was

previous discussion about the ability of staff to research a site and determine if it was a legitimate site, and if so, to have the capability to unfilter it. Vice Mayor Walters requested Ms. Spinner's assistance with regards to the wording of that component of her motion.

Ms. Spinner stated that the intent was on a site-by-site basis. She explained, by way of example, if a patron requested access to a particular site and a librarian viewed the site and determined it was not inappropriate, then it would probably be acceptable for that specific site to be unfiltered by the librarian.

(Councilmember Thom left the meeting at 9:30 a.m.)

Councilmember Griswold concurred with the amended motion and stated that he looks forward to staff returning with a proposal for a research computer that could be monitored more effectively and efficiently.

Councilmember Rawles stated that although he continues to oppose Mesa libraries offering public access computers to their patrons, with the additional language contained in the amended motion, he would support it in its current form.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Rawles-Walters-Whalen
NAYS - None
ABSENT - Thom

Mayor Hawker declared the motion carried unanimously by those present.

Mayor Hawker thanked staff for the presentation.

4. Appointments to boards and committees.

Mayor Hawker recommended the following appointment to Boards and Committees:

HUMAN RELATIONS ADVISORY BOARD

Susan Weidner – Term expires June 30, 2007

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that the Council concur with the Mayor's recommendation and the appointment be confirmed.

Mayor Hawker declared the motion carried unanimously by those present.

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

Councilmember Whalen
Councilmember Griswold

Filiberto's and AJ's Grand Openings
Boys and Girls Club meeting; Downtown Business
Owners meeting

6. Scheduling of meetings and general information.

City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Monday, October 25, 2004, 4:00 p.m. – Police Committee

Thursday, October 28, 2004, 7:30 a.m. – Study Session

Thursday, October 28, 2004 – Following Study – Council Planning Session

Monday, November 1, 2004, TBA – Study Session

Monday, November 1, 2004, 5:45 p.m. – Regular Council Meeting

Thursday, November 4, 2004, 7:30 a.m. – Study Session

7. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

8. Items from citizens present.

No items from citizens present.

9. Adjournment.

Without objection, the Study Session adjourned at 9:45 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 October 2004. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK