

# COUNCIL MINUTES

August 31, 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 August 31, 2006 at 7:30 a.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

Claudia Walters

## OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Barbara Jones

Mayor Hawker excused Vice Mayor Walters from the entire meeting.

### 1. Review items on the agenda for the September 5, 2006 Regular Council meeting.

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

Conflicts of interest declared: 9a (Hawker-Rawles)

Items removed from the consent agenda: None

Items deleted from the agenda: None

### 2. Hear a presentation, discuss and provide direction regarding A-frame sign regulations.

Zoning/Civil Hearing Administrator Gordon Sheffield said that he, Senior Town Center Development Specialist Patrick Murphy and Acting Code Compliance Director Ray Villa were present to address the issue of A-frame signs.

Mr. Sheffield displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) on A-frame portable signs, and he provided information on current City regulations and the practices of other Valley cities. He noted that the City allows A-frame signs for real estate open houses, special events and in the downtown area. Mr. Sheffield advised that Fountain Hills rescinded their A-frame sign ordinance when the signs negatively affected the community's appearance. He said that the Town of Gilbert does allow professionally constructed A-frame signs for small stores with no requirement for a permit or proof of insurance.

Mr. Sheffield stated that issues relevant to A-frame signs include the fact that small stores often lack identification from the street and that a significant number of signs create the potential for "sign clutter." He also noted that negotiations with large developments, such as Superstition Springs, resulted in larger signs attached to the walls of anchor stores and fewer signs at ground level. Mr. Sheffield explained that a Comprehensive Sign Plan, based on the existing Code and designed to address a unique problem, is subject to approval by the Board of Adjustment and that allowing A-frame signs removes a negotiating factor from that process. He added that non-conforming, grandfathered signs are brought into conformance when new sign permits or building permits are issued. Mr. Sheffield advised that the A-frame draft amendment (see Attachment 1) includes the following Town of Gilbert requirements:

- Height – 3 feet; Area – 6 square feet; 20 foot spacing.
- Professionally designed.
- One per business.
- Placement: 3 feet from sidewalk; 15 feet from the curb; on the ground.
- No illumination or moving parts.
- Set out in the morning and removed in the evening.
- Violations are subject to confiscation.

Mr. Sheffield further advised that the draft amendment incorporates the additional requirements as listed below:

- Requires \$1 million insurance with the City of Mesa named as co-insured.
- Requires a Use Permit and fee with a "date sticker" on the sign.
- The permit is for a period of one year.
- A nine-month "Sunset Clause" is included for the trial period.
- A-frame signs only allowed if the business has no other option available for street sign visibility.
- Denies A-frame signs if a C-O-I (Commercial-Office-Industrial) development has a Comprehensive Sign Plan.

Mr. Sheffield continued the PowerPoint presentation by displaying examples of A-frame signs that would violate the proposed amendment and examples of signs that would comply with the proposed amendment. He noted that "multiple tenant signs" are an option that is currently available under the Code. Mr. Sheffield added that "sign faces" indicating only the shopping center's name can be replaced with a sign that lists the center's tenants. He also noted that Mesa does not restrict window signs outside of the downtown area.

Mr. Villa stated that staff's current enforcement of sign regulations is limited to responding to complaints, and he advised that other sign violations in the immediate area are addressed at the same time. He said that no staff would be added during the trial period, and that staff would continue to respond on a "complaint only" basis. Mr. Villa said that additional staff time would be devoted to educating business owners regarding the regulations and monitoring the Use Permit numbers. He reported that approximately 40,000 "bandit signs" were confiscated last year. Mr. Villa estimated that after the trial period, two additional Code Compliance Officers and one Permit Technician would be required to enforce and administer the program.

Mr. Murphy stated that in 2001 the Council approved A-frame signs in the downtown pedestrian area because the building signs were not visible through the trees. He advised that insurance is

required in order to obtain the Use Permit at an annual cost of \$25, and that at the present time only 17 downtown stores are participating in the program.

Mr. Sheffield advised that a Council decision to move forward to amend the Zoning ordinance requires consideration by the Planning and Zoning Board and the Downtown Development Committee before the Council takes action. He estimated that amending the ordinance would result in approximately 1,600 applications for A-frame signs, and he recommended implementing an annual fee of \$124.60 for each A-frame sign

Discussion ensued relative to the fact that although the trial program period would be nine months, the Use Permit would be valid for one year; that staff would settle disputes regarding sign placement; that staff is available to assist businesses in developing a Comprehensive Sign Plan as an alternative to A-frame signs; that the proposed amendment stipulates that the signs utilize die-cut graphics; that downtown businesses are not presently required to utilize die-cut graphics; and that the \$1 million insurance requirement for the downtown businesses has not been cost prohibitive.

Mayor Hawker suggested that after a trial period, the City could consider a uniform standard for A-frame signs throughout the City.

Responding to comments from Councilmember Griswold, Mr. Sheffield advised that the primary reason for a permit is to verify compliance with the insurance requirement.

City Attorney Debbie Spinner advised that a "Sunset Clause" terminates the program on a specific date and that an A-frame sign could continue to be utilized until the Use Permit expires.

Councilmember Griswold expressed support for a "Sunset Clause," and he suggested that an annual Use Permit fee of \$150 be implemented. He stated the opinion that the proposed sign regulations will improve the appearance of the City, and he advised that the Chamber of Commerce has offered to collaborate with sign companies to educate businesses regarding A-frame signs.

Councilmember Jones said he supported a requirement for professionally made signs, but he expressed concern that requiring "die-cut" graphics was too restrictive. He stated that he understood the insurance requirement for the downtown pedestrian areas, but he questioned the rationale for an insurance requirement in other areas of the City. Councilmember Jones noted that the Town of Gilbert does not require insurance.

Ms. Spinner provided hypothetical examples of situations that could incur a liability on the part of the City, such as a person tripping over a sign or a traffic accident caused by a sign blown into the street.

Councilmember Jones requested that staff provide definitive information on the cost to businesses to add the City as an additional insured on a \$1 million policy.

Ms. Spinner advised that the City could legally exclude businesses that have a Comprehensive Sign Plan from utilizing A-frame signs.

Mr. Sheffield stated that the proposed amendment excludes businesses that have a Comprehensive Sign Plan, and he stated that large malls, such as Superstition Springs, would not be eligible to utilize A-frame signs.

Mayor Hawker noted that businesses are aware of the sign space available to them when they lease the property. He stated the opinion that the City was attempting to correct situations that are the responsibility of the landlord and the business owner. Mayor Hawker provided an example of a business located in a center with a Comprehensive Sign Plan that could be excluded from the center's sign and prohibited from utilizing an A-frame sign, while businesses across the street in a center without a Comprehensive Sign Plan could utilize A-frame signs.

Mr. Sheffield noted that each of the City's zoning districts has different sign regulations that reflect the context of the area, such as multi-family residence or office, commercial/industrial, and the downtown area's pedestrian overlay. He stated that the downtown district is the only pedestrian-oriented area of the City and the businesses do not have access to a detached sign.

Councilmember Rawles stated the opinion that some businesses have no access to signage because of the City's restrictions. He further stated that the City's regulations limit developers' decisions regarding signage.

In response to questions from Councilmember Rawles, Mr. Sheffield advised that the City has no insurance requirement in place for "open house" and "special event" A-frame signs, and that he is unaware of any claims against the City resulting from the placement of these signs.

Ms. Spinner responded to Councilmember Rawles inquiry regarding the proposed fees and advised that if the City terminates the program after the trial period, the City is legally entitled to retain the revenue in order to address the costs incurred to implement the program.

Councilmember Rawles expressed the opinion that the City is obligated to refund the A-frame permit fees if the Council decides to terminate the program after the trial period. He also stated the opinion that the alternatives presented provide a choice between a regulation that prohibits the signs and a regulation that is onerous, and therefore he would not offer a recommendation at this time.

Councilmember Griswold said that the Chamber of Commerce and various sign companies have agreed to participate in the education process regarding A-frame signs. He stated the opinion that the Sign Code requires a complete revision, and he added that the proposal for A-frame signs is a temporary measure subject to Council review in nine months. Councilmember Griswold expressed support for including a "Sunset Clause."

Discussion ensued relative to directing staff be directed to move forward with the draft amendment for A-frame signs with the inclusion of an annual "Sunset Clause."

Councilmember Whalen noted that the process requires reviews by the Planning and Zoning (P&Z) Board and the Downtown Development Committee (DDC), and he suggested that the Council delay making a recommendation until the reviews are complete.

Councilmember Griswold stated that he did not object to a review by P&Z and the DDC, and he suggested that the draft amendment, which includes input from the business community, is a starting point for addressing the issue.

Additional discussion ensued relative to the fact that downtown businesses presently pay a \$25 annual fee and the draft amendment proposes a \$124.60 annual fee for the remainder of the

City; that A-frame signs were permitted in the downtown area when City-planted trees obscured the building signage; and that the \$25 fee does not represent full cost recovery.

Councilmember Somers expressed support for an A-frame sign regulation that is uniform throughout the City, and he added that he would support a fee refund if the program was discontinued after the trial period.

Councilmember Jones said that the purpose of the proposal is to provide visibility for local businesses. He stated that he preferred the Town of Gilbert model which does not include a requirement to include the City as a co-insured on the insurance policy.

Mayor Hawker stated that each Councilmember had an opportunity to comment on the proposal. He directed staff to forward the proposal to the P&Z Board and the DDC for their review, and to provide the Council with their comments and recommendations at a future date.

Councilmember Rawles concurred with the comments of Councilmember Jones regarding the insurance requirement, and he expressed a preference for a less restrictive model.

Mayor Hawker stated that his comments to the P&Z Board would be that tenants are aware of the available signage when they lease a property, and he added that he did support liberalizing the Sign Code to permit A-frame signs.

City Manager Christopher Brady said that staff would research the cost of including the City as a co-insured. He noted that Code Compliance staffing levels were reduced in the recent budget process, and he stated that implementing a trial program would affect staff's ability to perform other duties in a timely manner. Mr. Brady suggested that fees collected for a trial program be utilized to increase the department's overtime budget, which would also enable weekend enforcement of the A-frame sign regulations.

Mayor Hawker thanked staff for the presentation.

3. Hear a presentation, discuss and provide direction on impact fees and proposed methodologies.

Mr. Brady advised that the City's consultant is in the initial stages of conducting a study on impact fees. He stated that the presentation would outline preliminary information and provide an opportunity for Council direction and input on the proposed process.

Building Safety Director Terry Williams introduced Jim Duncan of Duncan Associates, a consultant with over 43 years of planning and impact fee experience, whose firm has provided impact fee consulting services to the City for almost ten years. He advised that the City retained Duncan Associates to prepare a study regarding the methodology of future impact fees.

Mr. Duncan displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office) to provide an overview of the project, and he noted that his associate, Clancy Mullen, who will assist in preparing the study, was unable to be present at this meeting. He advised that his firm maintains the ImpactFees.com website, which provides non-commercial information regarding impact fees throughout the United States.

Mr. Duncan advised that impact fees, first implemented thirty years ago in Florida, are more prevalent in southern and southwestern states. He stated that effective impact fees are tailored to meet the needs of individual communities. Mr. Duncan noted that Mesa decided many years

ago not to assess impact fees for roads. He further advised that although litigation regarding impact fees has increased during recent years, the courts typically sustain the positions of local governments. Mr. Duncan said that national trends reflect an increase in fees that generate a higher cost recovery. He reviewed the following basic legal principles that govern impact fees:

- Rational Nexus Test
  - Development creates the need.
  - Development benefits from improvements.
- Proportionate Share Principles
  - Do not charge for high level of service (deficiencies).
  - Do not charge twice for same service (fees and taxes).
- State Law (Section 9-463.05)
  - Fees “must bear reasonable relations to burden imposed.”
  - Credit must be given for future payments for same facilities.

Mr. Duncan displayed a summary titled, “Arizona Impact Fees – 2006” (see Attachment 1) that lists the fees charged by Arizona municipalities. He explained that many factors influence the differences in fees, such as the types and levels of services provided, land and facility costs, the local tax structure, and financing and cost recovery. Mr. Duncan outlined the alternative methodologies, standards-based and plan-based, that are available for impact fees and the current and alternative methodologies relevant to Mesa’s cultural facilities and water and wastewater facilities fees. He noted that Mesa’s water and wastewater impact fees are calculated in a conservative manner and are substantially lower than the fees charged by other cities. Mr. Duncan stated that several options are available for cultural facilities impact fees, including consolidating this fee with the Parks and Recreation fee. He also outlined the following innovative applications utilized by various municipalities:

- Tiered area fees.
- Targeted area fees.
- Transit-sensitive road fees.
- Progressive residential fees.
- Retail-sensitive road fees.
- Limited component fees.
- TND/TOD-sensitive road fees.
- Limited component fees.
- Policy grants and subsidies.

Financial Services Manager Bryan Raines displayed a chart titled “Five Fiscal Year History of Impact Fee Revenues by Fund” (see Attachment 2), and he noted that revenues for each fee are maintained in separate funds. He advised that revenues primarily address existing bond debt, and he noted that funds without existing bond debt are accumulating cash balances that could address eligible projects on a “pay-as-you-go” cash basis.

Mayor Hawker stated that the staff is requesting Council direction regarding the study of impact fees and methodologies. He expressed support for the “cost recovery hybrid” approach to calculating fees, and he said that the City has Master Plans in place that can be incorporated into the study. Mayor Hawker noted that the Greenfield Water Reclamation Plant is a joint effort of the City and the Town of Gilbert and that Gilbert’s wastewater impact fee is substantially higher than the fee charged by Mesa. He further stated that he did not support a cultural impact fee to cover replacement of the Mesa Arts Center or replacement of items donated to the Arts

Center collection. Mayor Hawker added that he did not support a road impact fee because the methodology is extremely complicated.

Councilmember Griswold concurred with Mayor Hawker that the "cost recovery hybrid" methodology was preferable.

Discussion ensued relative to the fact that the City of Phoenix implemented zoning districts; that the districts focus higher fees in growth areas; that two zoning districts have been discussed as a means to address the City's water and wastewater infrastructure; and that the City of Mesa provides full credit for redevelopment on the current rates based on the previous use.

Further discussion ensued relative to the fact that that the City's subdivision ordinance requires a developer to provide a maximum of 24 feet of paved right of way for the roadway; that that the City pays for additional paved lanes in excess of 24 feet; that additional costs to construct larger arterials are addressed by the Transportation budget; that in east Mesa, developers spread the roadway costs over the entire project; that developers in west Mesa are charged their fair share of the costs based on the street frontage; and that older, mature areas of a community experience difficulty in assessing these fees due to the fact that the costs for rights of way are more expensive than in undeveloped areas of a community.

Councilmember Rawles proposed eliminating the cultural impact fee, and he concurred with Mayor Hawker's comments that fees should not address replacement of the Arts Center or donated collections. He requested that staff provide additional information regarding the expenditure of cultural impact fee revenues.

In response to a question from Councilmember Rawles regarding "Debt Service Credit," Mr. Duncan stated that Mr. Mullen would provide a written report to the Council through staff.

Mr. Williams noted that State Statutes and the local ordinance require that impact fees collected must be expended within ten years or refunded to the developer, and he noted that no Capital Improvement Projects are presently planned for cultural facilities.

Responding to a question from Councilmember Whalen regarding cultural facility projects, Capital Improvement Projects (CIP) Administrator Anthony Araza explained that cultural projects are not in the current CIP Five-Year Plan due to the unavailability of operating funds.

Councilmember Whalen expressed support for combining the cultural and the parks and recreation impact fees.

Mr. Raines responded to a question from Councilmember Somers by advising that library impact fee revenues in excess of \$4 million have not been expended due to the fact that the City has no library bond debt. He added that although these funds could be utilized to construct a new library or expand an existing library, the City does not have the General Fund dollars to operate and maintain the facility. Mr. Raines explained that impact fee revenues must address new capital projects, and therefore the City is unable to utilize impact fee revenues to replace an existing item such as a broken water line.

Additional discussion ensued relative to the fact that staff is directed to provide information on district-related impact fees; that a facilities district could be created in addition to imposing impact fees provided developers are not charged twice for the same infrastructure; and that privatization of the museums could eliminate the need for a cultural impact fee.

Mayor Hawker summarized that the majority of Councilmembers expressed support for implementing the cost-recovery method and eliminating the replacement of the Mesa Arts Center from the cultural impact fee. He thanked Mr. Duncan and City staff for the providing the presentation in advance of implementing the study.

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

Councilmember Somers: Hosted a meeting of neighborhood leaders in his district.  
Councilmember Griswold: Met with Mr. Obie Jones of Boeing.  
Mayor Hawker: Met with various candidates running for State offices.

5. Scheduling of meetings and general information.

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

Tuesday, September 5, 2006, TBA – Study Session  
Tuesday, September 5, 2006, 5:45 p.m. – Regular Council Meeting  
Thursday, September 7, 2006, 7:30 a.m. – Study Session  
Tuesday, September 12, 2006, 3:30 p.m. – Police Committee

6. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

7. Items from citizens present.

There were no items from citizens present.

8. Adjournment.

Without objection, the Study Session adjourned at 9:53 a.m.

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KENO HAWKER, MAYOR

ATTEST:

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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 31st day of August 2006. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK

Attachments (2)