



COUNCIL MINUTES

February 27, 2003

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 February 27, 2003 at 7:38 a.m.

COUNCIL PRESENT

Mayor Keno Hawker
Dennis Kavanaugh
Rex Griswold
Kyle Jones
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

1. Review items on the agenda for the March 3, 2003 Regular Council Meeting.

All of the items on the agenda were reviewed among Council and staff with no formal action taken. There was specific discussion relative to the following items:

Mayor Hawker stated he had a question on 5 a. He noted that the cost of the Water Quality brochures was cut by \$25,000 and asked if there was any way to conform to federal regulations without spending \$41,000.

Discussion ensued relative to the fact the Environmental Protection Agency (EPA) may agree to online availability of the report in the future, the EPA presently requires that every customer be provided with a printed copy of the report, mailing to billed customers would not comply with the law as some water customers are not directly billed such as in the case of a multi-unit housing development with a single meter, and failure to comply with the law could result in fines from the EPA in addition to the original expenditure of \$41,000.

Utilities Manager Dave Plumb advised that this year the report would be mailed to all Mesa postal customers. He stated that the costs to produce and mail the report are \$25,000 less than last year as a result of in-house production and using the postal customer mailing technique.

Vice Mayor Kavanaugh stated he had a question on item 6b and noted that this item used CDBG funds to install a sidewalk ramp to comply with the Americans with Disabilities Act (ADA). He asked how the City addresses other neighborhood concerns regarding ADA accessibility on existing sidewalks and how would the projects be funded.

Development Services Manager Jack Friedline stated that the requests are placed on a contract list, but there is insufficient money in the budget to address every request.

Conflict of interest declared: 5b (Hawker), 9c (Whalen)

Items removed from the consent agenda: 5b, 9c

2. Discuss and consider credit card convenience fees and related issues.

Materials Management Director Sharon Seekins introduced Controller Kathy Pace and advised that the staff recommendation to the Council relative to online payment policies is that services be priced the same whether payment is made online, by mail, telephone or over the counter and that "convenience fees" not be implemented at the present time. She added that staff is recommending that the policy be implemented for the remainder of fiscal year 2002-2003 and 2003-2004 in order to encourage the use of online services. Ms. Seekins noted that an exception outlined in the report is that the Council might consider imposing a modest convenience fee for business-related services such as building permits, as these customers may be strongly motivated to do business online and more willing to pay a fee for the convenience. She reported that the CIS (Customer Information System) Utility System will be the first to come online and that service is expected to be available in April or May.

Discussion ensued relative to a possible reduction in the number of Sure Pay transactions as a consequence of the proposed policy, that additional options available with the online system might increase the number of Sure Pay customers, credit card transactions are the least likely to be returned, the average credit card payment was larger than on Sure Pay, the Court system processes 20.7% of their annual dollars and 18.3% of annual transactions using credit cards, and even though a credit card transaction fee is incurred, the City is more likely to receive a payment in a situation where there might be no payment made at all.

Ms. Seekins pointed out that the new technologies would also improve staff efficiency. She stated that Assistant Community Services Manager John Holmwood informed her that the Tele-Track system used by Parks & Recreation customers to register for classes has reduced the number of in-person registrations and allowed the department to reassign part-time staff to other customer service priorities. Ms. Seekins explained that staff anticipated similar efficiencies with the introduction of the various online systems and these efficiencies were included as part of the justification when the requests to purchase the systems came before the Council.

Ms. Seekins responded to Councilmember Jones' concern regarding credit card transaction fees for permitting and confirmed that the fees would be charged back to the Building Department. She deferred to Mr. Friedline for an estimate of how much money the Building Department receives for permitting.

Mr. Friedline stated that projected permit fees for the current year total \$6.2 to \$6.3 million.

Councilmember Jones noted that if 50% of the fees were paid by credit card, 3% of \$3 million would be a significant loss of revenue.

Discussion ensued relative to the fact that credit cards are currently used to pay fees at Customer Service even though the transaction is not accomplished online, and staff projects

that only an estimated 10 to 15 percent of customers are expected to switch to the online system, many of which may already be paying by credit card.

Ms. Seekins addressed Councilmember Jones' concern that the City would lose revenue if a builder used a credit card for a large project by noting that one of the things that staff will review is the type of transactions that should be made available for payment through the online system. She advised that research of other cities indicated that some only allow online payments for simple permits and complex, higher dollar permits required an over-the-counter transaction.

Discussion ensued that from a legal standpoint, what the City does for one has to be done for all, the City could determine what fees can be paid by credit card, a builder could have a very high credit card limit, SRP increased their fees while continuing to accept credit cards, and SRP gives one percent back to those using Sure Pay.

Ms. Seekins responded to Councilmember Griswold's question as to whether different transaction fees could be negotiated for the larger building permit transactions by stating that negotiations for different rates would be possible in the future, but presently the City has an across-the-board fee structure due to the low volume of credit card transactions.

Discussion ensued relative to breaking out the figures for the Building Department and the possibility of negotiating a separate contract for large credit card payments.

Mayor Hawker expressed his opinion that by accepting credit card payments, the amount paid to the City using Sure Pay would decrease. He concurred with the comments made by Councilmember Griswold that offering a 1% discount for those using Sure Pay might be an effective incentive. Mayor Hawker added that the use of credit cards could impact the City's service charges and utility rates and expressed the opinion that the whole system needs to be revamped. Mayor Hawker stated that there was more to consider than what was presently before the Council.

Ms. Pace, responding to comments by Councilmember Walters, confirmed that the City is currently accepting credit cards and noted that the staff report dealt with the possibility of increased usage due to the system going online. She also confirmed that Parks and Recreation currently accept credit card payments over the phone.

Councilmember Walters expressed her support for implementing the online system for Parks and Recreation as credit cards are already being accepted. She suggested that the cost of credit card usage should be incorporated into the fee structure for all classes. Councilmember Walters said she concurred with Mayor Hawker on the other issues and supported implementing the 1% discount for Sure Pay at the same time that the convenience of online credit card payments are offered. She stated that whether credit cards were accepted online or over the counter did not matter, but if the cost of accepting credit cards for Building permits is significant, the cost should be built into that fee structure as well.

City Manager Mike Hutchinson suggested that staff review the Sure Pay discount and report back to Council. He noted that some fee increase proposals would be coming before the Council in the near future and staff will include background information on credit card usage.

Mayor Hawker noted that the concept is to have a somewhat level playing field between the costs and to offer all the methods of payment: credit cards, checks, Sure Pay, etc.

Ms. Seekins stated that the essence of the staff report is to obtain direction from the Council relative to pricing online transactions differently than the same transaction conducted in person. She explained that the concept was to attach the convenience fee only to online transactions and not to transactions conducted over the counter or by phone. She added that the Council could then determine fee structures and if an incentive for Sure Pay was appropriate.

Ms. Seekins responded to Councilmember Thom's question regarding the number of credit cards being accepted by noting that all the cards charge similar fees for a web transaction. She added that an over-the-counter American Express transaction is slightly more expensive than other cards, but the City has certain customers making reservations for golf or the Centennial Center who prefer to use the American Express card. Ms. Seekins advised that on the web, 98 or 99% of credit card transactions were Visa or MasterCard, so eliminating Discover and/or American Express would affect only a very small number of customers.

Councilmember Whalen noted that there appeared to be three months of development time to prepare for this program. He expressed the opinion that treating both kinds of transactions the same would not harm the City. Councilmember Whalen suggested that the Council approve the program and then address the 1% discount when considering fees. He stated that the City is performing the same function whether the transaction was online or not.

Councilmember Griswold stated that the business community and private citizens have requested the convenience of paying fees online with credit cards and noted that most modern cities provide online services and E-trade. He commended staff for the work performed on this issue and stated that the convenience would be good for the business community and citizens. Councilmember Griswold agreed with the comments of Councilmember Whalen that the Council should move forward on this item and then review the details before the issue is finalized.

Councilmember Jones stated that if the Council moved forward as proposed, the item could always be revisited and a change made if the City incurred excessive expense due to a large influx of credit card transactions.

Ms. Seekins noted that the recommendation of staff is that the Council adopt the policy for the balance of the current fiscal year and all of the next fiscal year, but a finite time limit need not be established if the Council is not comfortable in doing so.

Councilmember Jones stated that he would be more comfortable to move forward now and then be able to check the progress and evaluate the program every few months.

Ms. Seekins noted that until there is some history, changes in payment practices would be difficult to determine. She added that staff would be comfortable with an open-ended timeframe and feedback will be provided to the Council at whatever frequency is requested.

It was moved by Councilmember Jones and seconded by Mayor Hawker that online service for payment of fees be provided to citizens at the same price as other methods of payment with an open ended timeframe and that the subject be revisited by the Council as necessary.

Councilmember Whalen asked when staff would reasonably expect to begin this program if Council gave authorization today.

Ms. Seekins noted that the first system to go online is the CIS Utility bills and staff could come back to Council about six months later with historical data on the program.

Mr. Hutchinson responded to Councilmember Whalen's inquiry by stating that CIS would be operational in four to six months.

Discussion ensued relative to the fact that a 1% Sure Pay discount would be discussed during budget hearings, the City would receive less money if Sure Pay transactions were lost to credit cards, the City does not presently offer cash discounts on large bills, there was concern that the City would be encouraging credit card usage if the 1% Sure Pay discount was not offered, many people often use a credit card for everything so that there is only one bill to pay, debit cards could be used the same as credit cards, the cost to write a check and mail the payment exceeds the amount of a 1% Sure Pay discount, the City would incur fewer bad debts with credit cards, and less City staff time would be required to process credit card payments.

Mayor Hawker stated that there was a motion and a second to approve staff's recommendation to adopt a policy to provide online services that would have comparable fees for an open-ended period of time with periodic evaluations by the Council.

Carried unanimously.

3. Discuss and consider authorizing a refund retroactive to March 1, 2002 for those qualifying customers that are connected to septic tanks but have been charged Mesa City sewer charges.

Tax and Licensing Director Don Ayers addressed the Council and recalled that an ordinance was approved in January of this year that stated if the sanitary needs of a residence were being met through a connection to a septic tank, the City would not impose the sewer charge. He noted that many residents on McDowell were billed for the sewer charge even though the residence used a septic tank, but beginning in March 2002, these residents were not charged. Mr. Ayers noted that other residents on McDowell were never charged prior to March 2002. He stated that staff is recommending that the residents who were charged the fee prior to March 2002 be given a cash refund for one year rather than back bill those McDowell residents who were not charged the sewer fee. Mr. Ayers explained that staff believes this would be an equitable settlement to resolve the discrepancy in sewer charges.

Councilmember Whalen stated that the subject has been an issue with some citizens in the past couple of years and he noted that this Council resolved the issue by changing the ordinance. He said that the issue before this Council is how far back the City would go to issue refunds. Councilmember Whalen emphasized that the Council has the legal right to change policy and has done nothing wrong. He asked the City Attorney to explain the Council's legal position and provide a recommendation regarding refunds to those residents with septic tanks that paid sewer charges.

City Attorney Debbie Spinner confirmed that the ordinance was legal and the money was collected appropriately and in accordance with the ordinance. She added that the ordinance has now been changed and fees are no longer being collected from these residents. Ms.

Spinner explained that the City is not legally obligated to provide any refund due to the fact that the money was legally collected. She stated that if the Council decided not to issue a refund to the residents who paid fees prior to March 2002, the City would request payment from those residents who were never charged the fee prior to March 2002. Ms. Spinner clarified that the Council could determine if a refund should be issued as well as the time period to be covered by the refund or the Council could decide not to issue a refund.

Ms. Spinner concurred with Councilmember Whalen's comments that the research to determine the person legally entitled to a refund would be time-consuming, and stated that she understood that the records available go back for only two years. She added that any records beyond the two-year period would be difficult for staff to research.

Councilmember Whalen responded affirmatively to Mayor Hawker's question as to whether he concurred with the staff recommendation, but noted he was no longer Chair of the Utility Committee and suggested that Councilmember Thom provide her opinion.

Councilmember Thom, noting that she had several questions and concerns, asked Mr. Ayers how many people have escrow or trust accounts into which sewer charges have been paid with the expectation that the funds would be refunded due to the fact that the property was not connected to the sewer system.

Mr. Ayers responded that there was one person.

Councilmember Thom noted that issuing a refund to someone who has moved would be a problem. She suggested that a fair plan would be for the City stipulate a period of time during which refunds would be offered to people who paid for sewer service and did not receive it, but have records to substantiate their payments. Councilmember Thom emphasized that the people would have to come forward rather than the City conducting a search. She stated that she had information that there are 580 people on septic tanks that could be connected to the sewer but are not connected and these people are not being charged.

Mr. Ayers stated that he did not have that information and the report to Council lists the residences of which staff was aware. He noted that the report to Council recommends that the City consider claims for refunds up to one year after the effective date of the ordinance which would be 30 days after the ordinance is approved by the Council.

Councilmember Thom expressed her opinion that the City was not being fair in going back only one year when some people have been paying for many years. She noted that information presented to the Utility Committee indicated that there was not an enormous amount of money to be refunded.

Mr. Ayers stated that for the residences identified in the staff report, the estimate is approximately \$2,600 for one year. He noted that in the early years the sewer charge was 50 cents or \$1 per month.

Councilmember Thom noted that the principal amount for one residence totals \$3,800 for 32 years. She expressed the opinion that the City should refund the amount that customers are able to substantiate has been paid over the years, but she does not believe the City should perform outreach to locate these people. Councilmember Thom continued that if customers

who did not receive service come forward with records of sewer charges that were paid, the City should refund the money.

Ms. Spinner addressed the issue of placing the burden of proof on the customer and advised that if the Council decides to issue a refund, staff would have to make reasonable efforts to identify the customers who are entitled to that refund. She explained that the City could not completely place the burden on the residents to come forward with justification due to the fact that the City does have records and staff would have to take reasonable measures to review the records to determine who is entitled to a refund.

Councilmember Thom expressed the opinion that if people have moved away or residents do not request a refund, the City would not be obligated to locate these individuals. She believes that there are limits to the City's responsibility to locate people but, if people can substantiate what was paid, the City should provide a refund. Councilmember Thom added that many people paid for a service that was not provided to insure that other services such as gas, electricity and water would be continued. She restated her opinion that charging people for services not provided was unfair and the money should be refunded if the amounts can be reasonably substantiated.

Vice Mayor Kavanaugh advised that an ordinance could not be crafted to apply to only one person as ordinances apply to people across the board. He noted that the proposed ordinance before Council is a reasonable proposal consistent with records in terms of providing refunds to individuals. Vice Mayor Kavanaugh said that if the ordinance was open-ended for one case, the ordinance would apply to all cases and the City would have a good faith obligation to seek out other people who may have paid under the prior lawful ordinance. He added that the payments received by the City were under a valid ordinance that was enacted by the Council and not struck down by the Courts. Vice Mayor Kavanaugh explained that sometimes there are constitutional constraints regarding what the Council wants to do and what the Council can do. He emphasized that the Council has to be careful of special legislation issues and added that what the Council does for one person has to be available to all. Vice Mayor Kavanaugh suggested that the Council consider the consequences of an open-ended ordinance in terms of staff time and turmoil. He stated that this is an effort to respond to a change in an ordinance made by this Council to provide refunds, but the earlier payments were lawful payments made under a valid ordinance.

Councilmember Whalen said he would provide a little history so that the Council does not look like ogres in this situation. He explained that one reason for the "in lieu" payments was that the City expected that these customers would want to have access to the sewer system at some point in time. He added that another reason was that some residents might connect to the sewer system illegally and the City wanted to make sure those issues were covered. Councilmember Whalen noted that the main reason for the payments was that the sewer was available and, if at a future date the resident wanted to connect to the sewer, the monies collected would be available in a trust account. He asked Mr. Ayers if he was stating that information correctly, and he added that there is a listing in the City books that these residents have paid a certain amount of money and, if the residents ever want to connect to the sewer, the money could be used to offset the cost of the connection.

Mr. Ayers responded that the only records that he was aware of were those for Marilyn Wennerstrom.

Ms. Spinner advised that the individuals identified in the staff report are those that the City is aware of that are on septic tanks and if a decision is made to connect to the sewer system, the amount paid by these individuals would be deducted from the impact fee.

Councilmember Whalen noted that the City is not taking money away from anyone and if one of these individuals has a septic tank failure and wants to connect to the City sewer system, the amount of monies paid would be credited to the cost of the connection. He concurred with the opinion of Vice Mayor Kavanaugh that legally the Council can only provide a refund for the one year, but he does have empathy for those who paid and chose not to connect to the sewer. Councilmember Whalen added that these individuals still have the option to connect to the sewer system and he stated the opinion that the proposed Council action is reasonable.

It was moved by Councilmember Whalen, seconded by Vice Mayor Kavanaugh that staff be directed to prepare an ordinance to refund payments back to March 1, 2002, for those qualifying customers that are connected to septic tanks but have paid City sewer charges.

Councilmember Walters said she understood that staff indicated that there were records for two years and asked if that was correct.

Mr. Ayers stated that the information available on computer from the Clerk's Office is a two-year history of each account. He clarified that other records are available on microfilm, but the search would be very laborious. Mr. Ayers stated that staff recommended three years even though some work would be involved, but he believed that number of years to be fair. He recalled a recent Council discussion resulted in a policy that stated the number of years the City would consider when making refunds and the decision of the Council at the time was three years.

Mr. Ayers noted that the staff report explains that the charges were not mistakes, but rather the charges were correct based on a legal ordinance and for that reason, he did not recommend going back three years. He clarified that the records are available, but the investment of staff time to go back three years would be considerable. Mr. Ayers noted that in cases where the property was sold during the three-year period, there would be the problem of allocating refunds to more than one person. He noted that the one-year time period would be much easier for staff to work with and the 13 individuals listed in the report have been there for the entire one-year time period.

Councilmember Walters expressed the opinion that another reason the ordinance was enacted was that having residences connected to the sewer system was in the best interest of the health and welfare of the City. She stated that the ordinance was legal at the time and the ordinance would still be legal if that was the desire of the Council, but the Council chose to change the ordinance. She commented that the City has developed to a great extent and the City now has Ordinance 3880, which deals with providing utilities outside of the City. Councilmember Walters stated that she would feel more comfortable if there was a three-year timeline as opposed to the one-year rollback. Councilmember Walters indicated that Councilmember Thom's suggestion of going back 30 years would be fine if the onus was placed on the customer, but the City cannot legally do that. She stated she would vote in opposition to the motion due to the fact that she believes the period of time should be longer than one year.

Councilmember Jones said he agreed with the statements of Councilmember Walters. He noted that records for two years were available on the computer which meant only one year would have to be researched on microfiche. Councilmember Jones expressed concern regarding the expenditure of staff time to obtain the information and said he supported the two-year time period for that reason. He noted that if the Council was trying to be consistent, he believed the three-year time period would be appropriate. Councilmember Jones stated he would vote in opposition to the current motion.

Councilmember Griswold asked staff for clarification regarding a dye test mentioned in the staff report and asked if the dye test was to verify that the residence is not connected to the sewer system and was the test a condition of the refund.

Mr. Ayers responded affirmatively and noted that when staff made on site visits, often the resident was not at home or City employees were asked to leave the premises and, in those cases, the City has not been able to conduct the dye test. He confirmed that the dye test was a condition of the refund.

Discussion ensued relative to the one-year timeframe contained in the motion before the Council and if that motion failed, a new motion could be made to reflect other timeframes.

Mayor Hawker stated that there was a motion and second to refund the sewer system fees back to March 1, 2002, for property that is not connected to the sewer system. The motion failed by a vote of 2 in favor (Kavanaugh & Whalen) and 5 opposed.

Councilmember Walters said she would make the motion to direct staff to craft an ordinance that would refund for three years back, but she stated she was unsure of the specific date.

Mayor Hawker explained that the motion would bring this subject forward for full Council discussion at an open meeting where the Council could hear testimony and therefore the date could change again. He noted that if Councilmember Walters' motion stipulates a refund to cover three years, the date would be March 1, 2000.

Mr. Ayers responded to Councilmember Whalen's concern as to whether there were any persons outside the City of Mesa that have "in lieu" payments that would be subject to the refund by stating that he was not aware of any such cases.

Ms. Spinner said staff would check into the concern expressed by Councilmember Whalen as to whether the proposed ordinance would open the "in lieu" discussion and advise Council if the proposed ordinance would have any impact.

Councilmember Jones confirmed that the motion would cover the three-year time period from the date City stopped collecting payments and seconded the motion.

Councilmember Thom stated she wanted to include the Trust Account for full refund and asked if she could amend the motion.

Ms. Spinner explained that the Council could not pass an ordinance that impacts just one person and she stated that the motion would have to stipulate a refund for a three year time period or for a 30-year time period.

Councilmember Thom noted that the one account was substantiated and she believed the City initiated the idea.

Ms. Spinner explained that a notice of claim was filed in 1990 and at that time an agreement was reached between the City Attorney's Office and Ms. Wennerstrom's Attorney. She advised that the agreement reached was basically to disagree and Ms. Wennerstrom has the option to pursue litigation, but that case does not impact the decision that is before the Council. Ms. Spinner stated that the decision before the Council is to determine if the City should issue a refund and she added that a notice of claim should not be addressed in this agenda item.

Councilmember Whalen noted that should Ms. Wennerstrom decide to reissue her notice of claim, there was nothing to prohibit her from working with the City Attorney's office on any settlement outside of this issue.

Mayor Hawker stated that a motion and a second was before the Council to direct staff to draft an ordinance to go back three years and refund sewer system fees to residents whose property was not connected to the system. He stated the proposed ordinance would be brought forward at a Council meeting that will include public discussion.

Carried unanimously.

4. Hear a presentation on CDBG/HOME/ESG programs and recommendations for FY 03/04.

Ms. Spinner responded to Councilmember Whalen's concern relative to a possible conflict of interest by advising that the item before the Council was to hear a presentation on the CDBG funding. She indicated that the conflict of interest would exist when the time came to vote on allocating funds and when that time came, she would review the information to determine any potential conflicts.

Community Revitalization Director Kathleen Kelly said that staff was present to provide background information in advance of the public hearing. She added that staff has a brief PowerPoint presentation to provide background on three Federal programs and introduced Community Revitalization Specialist Lisa Hembree and Community Revitalization Assistant Justin Lisonbee.

Ms. Hembree provided background information on the Community Development Block Grant (CDBG) Program. She explained that CDBG funds are to be used for low moderate-income people, neighborhoods, elimination of slum and blight, and for other community development needs. Ms. Hembree added that Mesa received \$4.7 million in the current year and anticipates an allocation of approximately \$5.5 million in the coming year.

Ms. Hembree said the Home Investment Partnership (HOME) Program was established to create affordable housing and requires a non-federal 25% match for each dollar spent. She noted that Mesa joined with Maricopa County and other valley cities to form a Home Consortium to administer the federal funds with Maricopa County serving as the lead agency. Ms. Hembree advised that City activities funded through HOME include the Home Buyer Program, new construction of homes, reconstruction of homes, and homeowner and rental rehab.

Ms. Hembree noted that Emergency Shelter Grants (ESG) was the smallest of the federally funded programs. She advised that ESG only funds the operation or rehab of emergency shelters such as Prehab's Autumn House, La Mesita and Mesa CAN's Men's Center.

Ms. Kelly provided an update on the application process and noted that 42 applications have been received. She advised that the first public hearing will be on the agenda for Monday evening and stated that the 30-day public comment period will begin on March 3. Ms. Kelly provided the contact information for members of the public who might wish to provide written comments or speak at the public hearing.

Ms. Kelly referred to the book provided to Council, which she described as her department's "bible" for the year. She reviewed the contents and directed the Council's attention to the Council Report and Council Resolution at the beginning. Ms. Kelly noted that the book contains some background information that the Council may wish to review and specifically pointed out the Policy Guidelines and the Staff Review Criteria. She also referred to the third tab as the "meat" of the book as that section includes copies of the applications received for the coming fiscal year, approved funding for the current year and staff's funding recommendations. Ms. Kelly noted that administration was separated out in hopes that funding would be approved to assist in the development of the Housing Master Plan.

Ms. Kelly stated that a list of alternate projects for CDBG funding has been compiled in the event of changes to or cancellation of a project, or if additional funding becomes available.

Councilmember Whalen stated that on further advice from the City Attorney, he would declare a conflict of interest and refrain from discussion on this item.

Mayor Hawker and Councilmember Walters complimented staff on the format and organization of their report.

Discussion ensued relative to the list of alternate projects for CDBG funding and participation in the Arizona Bridge for Independent Living (ABIL) Program.

5. Hear, discuss and consider proposed 2003 Federal Legislative priorities.

Assistant to the City Manager Jim Huling referred to Mesa's Federal Priorities document and noted that copies were provided to the Councilmembers. He advised that the document is shared with the Congressional Delegation and stated that the priorities focus on two areas: a specific request for federal discretionary funds for a variety of projects but with an emphasis on transportation-related projects and second, a request for general support of some of the key National League of Cities priorities that have a direct impact on the City of Mesa.

Mr. Huling said he would comment on a few specific areas of the report and then answer any questions the Council might have. He noted that page 3 lists a request for \$2 million for construction at Williams Gateway Airport (WGA) Development, page 4 discusses the WGA south cargo ramp, page 8 refers to the regional Bus Facilities Request from Valley Metro for maintenance facilities, and page 10 addresses the Transportation TEA-21 Reauthorization. Mr. Huling suggested that the Council might wish to add an additional bullet requesting that the federal gas tax be indexed to inflation.

Mr. Huling noted that there are five priority projects listed in the report:

1. The Central Phoenix/East Valley Light Rail Transit Project.
2. The City of Mesa's share of the region-wide requirement for bus maintenance facilities during the next 5 or 6 years.
3. The construction of a new bridge across the Salt River at Dobson Road.
4. Construction of a freeway -to-freeway interchange connecting Loop 202 to US60.
5. Widening I-10 from 16th Street to Baseline including a collector distributor roadway system.

Mr. Huling referred to the Va Shilly'ay Akimel River Restoration Project on page 11 and noted that an additional \$870,000 is needed from Congress to complete the feasibility study. He also noted an incorrect figure in the background information and stated that \$1.35 million has been received over the last three fiscal years for this project.

Vice Mayor Kavanaugh thanked Mr. Huling for his report and noted that great progress has been made with the City's Federal Legislative Program in the past couple of years.

Discussion ensued relative to the following subjects:

- The Gilbert Road Bridge is a higher priority for Mesa than the Dobson Road Bridge, but without the support of the Indian Community there would be little chance of obtaining funds.
- The bullets and numbering of the projects outlined in the report will be revised and placed in the order of priority.
- Energy-related issues are reviewed by Utilities Manager Dave Plumb, the lobbyist and a statewide group in which Mesa participates. The City also participates in national organizations related to energy matters.

6. Discuss and consider accepting Consular identification cards as a recognized form of identification to obtain City services.

Diversity Program Director Mary Berumen said she was present to provide the Council with background information on the Mexican Consulate Identification Card and its acceptance by City government as a recognized form of identification to obtain City services. She noted that representatives of the East Valley Interfaith Project, the Mexican Consulate and the Mesa Association of Hispanic Citizens were present in support of the proposal.

Ms. Berumen presented historical information on the Mexican Consulate Card and stated that the cards were issued to Mexican nationals living abroad as identification for re-entering Mexico. She stated that two forms of identification must be provided to obtain a card: an original Mexican birth certificate and a second form of official Mexican identification such as a voter's card or a driver's license. She added that the card indicates a local address and passed a card around to the Council as an example. Ms. Berumen emphasized that the card would not establish U.S. citizenship. She pointed out the features of the card that included: a photo of the bearer, the name and date of birth, a security number issued by the Mexican Consulate, and a local address. Ms. Berumen added that visible security features include: security paper with a special security pattern, a seal over the picture that changes color, and an infrared band on the back. She advised that there are also invisible security features only visible with a special decoder, which would be provided to our Police Department by the Mexican Consulate. Mr.

Breumen noted that the Mexican Consulate maintains a computerized database of all cards including a photo of the subject that can be accessed by law enforcement.

Ms. Breumen stated that Wells Fargo and Bank One accept the ID card, as well as many police departments, cities and counties throughout the country, including Pima and Santa Cruz counties in Arizona, and airlines also accept the card as a valid form of identification. She emphasized that the Consular ID card does not eliminate the need for other forms of identification required in the United States, such as a driver's license or a Social Security Card. Ms. Breumen stated that staff recommended that the City accept the Consulate ID card as a form of identification to obtain some City services. She noted that the Mexican Consulate representative and Police Chief Dennis Donna were also present to answer any questions.

Discussion ensued relative to the fact that the benefits of the Consular ID card were: the card provided a form of identification with a current address, enabled access to the Public Library System, and could provide assistance to police in identifying accident and crime victims.

Councilmember Walters questioned the necessity of formal Council action regarding the ID card and noted that Council action would not change to the way the City conducts business. She expressed concern that the Council was taking an action that does not mean anything.

Ms. Breumen explained that acceptance of the ID card would assist the police and other departments in addressing Hispanic issues within the community. She noted that many Hispanic people are reluctant to contact the police regarding issues, but having an accepted form of ID would reassure them and make them more willing to come forward.

Discussion ensued relative to the fact that Consular ID records provided verification of residency in the U.S. as was required in the past for an amnesty program for illegals to obtain U.S. citizenship.

Councilmember Whalen noted that based on his experience in law enforcement, he could see a definite benefit to both the Police and Fire Departments in that a home address for individuals could be verified and public safety officers would have access to identity and background information. He expressed his support for Council acceptance for the use of this ID card.

Discussion ensued relative to persons using the ID card to obtain dual citizenship in Mexico and the United States and clarification was provided that any person born in America is an American citizen and therefore not eligible to obtain a Consular ID card.

Chief Donna, in response to a comment from Councilmember Griswold, stated that the Police Department views the database as an aid in performing their jobs. He added that all foreign agencies, including the Mexican Consulate, cooperate with department requests. Chief Donna concurred with Councilmember Whalen's comments that access to the database is a tremendous tool for police officers.

Discussion ensued relative to concern about the ID being issued to illegal aliens and the public perception that the card validates residency for illegal aliens, the fact that a Consulate or an Embassy is considered national territory and therefore the person being issued the card is considered to be in Mexico, that a request for immigration documents would be pointless as the

Mexican government cannot enforce American immigration law and whether acceptance of the Consular ID required action by the Council.

Chief Donna stated the use of the ID card assists officers in performing their duties. He noted that in certain instances an officer has the discretion to cite or arrest an individual if proper identification cannot be provided. Chief Donna said that encouraging these individuals to obtain a Mexican Consular ID card would assist the police department, but he could not comment on any reasons why the Council would be required to take this action.

City Attorney Debbie Spinner advised that this was a policy decision for the Council and not an action that was legally required.

Discussion ensued regarding the fact that the subject of ID cards was a sensitive matter, Council action regarding acceptance of the card would be helpful as a matter of policy direction, the ID could continue to be accepted without specific approval of the Council, and Council acceptance of the ID card would encourage compliance with other city codes, cooperation with public safety personnel and investment in the community.

It was moved by Vice Mayor Kavanaugh and seconded by Councilmember Whalen to accept the staff recommendation that Mexican Consular ID cards be considered a valid form of identification to obtain City of Mesa services. He responded to Mayor Hawker's request for clarification of the motion by stating that he was recommending approval of the staff report, which is the policy direction.

Councilmember Walters expressed concern that if she were to vote against the motion, her vote would mean she was opposed to staff accepting the ID and that is not her intent. She stated her opinion that this was not an appropriate matter to be considered by the Council and asked the City Attorney for her assistance in the explanation.

Ms. Spinner responded to Councilmember Walters' concern regarding a yes or no vote on the motion and explained that a "yes" vote meant that she was in favor of the Council taking action to establish a policy decision that the City will accept the Consular ID card as identification for persons applying for City services. She continued that a "no" vote meant that the Councilmember cannot support the motion as stated and would not necessarily mean that the Councilmember was opposed to accepting this form of ID for City services. Ms. Spinner stressed that if a majority of the Councilmembers voted against the motion without taking other action, such as leaving the decision a matter of discretion for the City Manager, then the Council was making a policy statement that the City would not accept this form of ID for purposes of receiving City services, but a "no" vote by the Council would not prevent the Police Department from using the ID card in investigations.

Vice Mayor Kavanaugh amended the motion at the request of Councilmember Jones to include the wording "that the City's approval of this policy does not recognize or validate illegal residents in the City, but the policy simply provides a means by which to conduct business" and the amended motion was seconded by Councilmember Whalen.

Ms. Spinner, at the request of Mayor Hawker, restated the motion to read, "to accept the Consular Identification cards as a recognized form of identification to obtain City services with

the acknowledgement that the City Council is not recognizing this as any type of residency issuance. It's nothing more than an identification method."

Deputy City Clerk Linda Crocker restated part of the motion that "this in no way validates or supports illegal citizens in Mesa, but is to be used as a form of identification only."

Councilmember Jones confirmed that Ms. Crocker's restatement of that section of the motion was acceptable to him.

Councilmember Walters stated that the motion and amendments were acceptable to her, but expressed her concern that the Council was setting a precedent regarding the approval of forms of identification.

Ms. Spinner stated that this action by the Council would not set a legal precedent. She noted that, as stated by Mr. Hutchinson, due to the sensitivity involved with this issue, staff decided to bring the subject before Council.

Councilmember Griswold expressed his opinion that the motion has two messages: the first is that every person residing in Mesa should have a photo ID and the Consular ID is a good one for people from Mexico, and the second is to advise businesses that this is a recognized form of identification.

Ms. Crocker, at the request of Mayor Hawker, restated the amended motion as follows, "It was moved by Councilmember Jones to support staff's recommendation relative to accepting Mexican Consular ID Cards as an additional form of identification based on additional language stated that this in no way validates or supports the presence of illegal residents in the City of Mesa but will only serve as an accepted form of identification."

Mayor Hawker responded to Councilmember Thom's continued concern about the types of identification that are accepted by the City by recalling that staff agreed to research the subject and advise the Council.

Mayor Hawker called for the vote and upon tabulation the motion was declared passed by a vote of 6 to 1 (Thom nay).

7. Discuss and consider a name change for the East Mesa Regional Library.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that the recommendation of staff be approved.

Carried unanimously.

8. Appointments to boards and committee.

Mayor Hawker recommended the following appointments to Boards and Committees:

Design Review Board Christine Close for a term ending June 30, 2003

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

Carried unanimously.

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

No reports were presented.

10. Scheduling of meetings and general information.

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

Monday, March 3, 2003, 3:30 p.m. – Utility Committee

Monday, March 3, 2003, TBA – Study Session

Monday, March 3, 2003, 5:45 p.m. – Regular Council Meeting

Thursday, March 6, 2003, 7:30 a.m. – Study Session – Cancelled

Thursday, March 13, 2003, 7:30 a.m. – Study Session

11. Prescheduled public opinion appearances.

There were no speakers.

12. Items from citizens present.

Marilynn Wennerstrom, 1112 N. Center Street, addressed the Council regarding agenda item number 3, the refund of sewer fees paid by residents that are not connected to the sewer system.

13. Adjournment.

Without objection, the Study Session adjourned at 10:25 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 27^h day of February 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

baa