

COUNCIL MINUTES

August 19, 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 August 19, 2004 at 7:34 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
Debbie Spinner
Barbara Jones

1. Hear a presentation on a proposed plan for the development of the southeast and southwest corner of the 202 and Dobson Road (Hurley family property) and consider authorizing staff to proceed with the preparation of an agreement outlining the City's financial participation in the development.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

City Manager Mike Hutchinson referred to a map of the proposed development site (southeast and southwest corner of the 202 and Dobson Road) and explained that in the past several years, the City has considered several projects for this location including the Cardinals' stadium and various retail development. He explained that more recently, City staff has worked with representatives of Kimco Developers and De Rito Partners on an innovative and unique retail development project. Mr. Hutchinson noted that one of the City's top priorities is to retain as well as expand its economic base with the proposed development, which is located at one of the most important economic nodes in Mesa (the confluence of the 101 and 202 freeways). He also stated that there are many exciting changes occurring in west Mesa, such as the redevelopment of the Motorola site, light rail, modifications at the former Tri-City Mall site and added that the proposed development of a major retail complex will bolster not only west Mesa, but the City as a whole.

Jerald Friedman, President of Kimco Developers, Inc., addressed the Council and introduced Marty De Rito, owner of De Rito Partners, and Bob Saemisch, Saemisch DiBella Architects,

Inc., the project's architect. He also acknowledged the presence of Bob Hurley, the owner of the property, and attorney Dave Udall.

Mr. Friedman provided a brief overview of the proposed project called "The Riverview at Dobson." He reported that the development partners have spent over a year in discussions with the City, neighbors and residents of Mesa in an effort to ensure that the project is unique, exciting and meets the needs of the community. Mr. Friedman announced that Kimco intends to develop more than one million square feet of mixed-use development including retail stores, restaurants, a movie theater/entertainment district, an auto mall and a commerce park. He stated the project would feature, among other retailers, Bass Pro Shops, Cinemark and a Super Wal-Mart.

Mr. Saemisch displayed a series of architectural renderings and highlighted the location and design of various aspects of the project. He commented that the movie theater/entertainment district would comprise the first phase of construction. He also noted that "The Riverview at Dobson" would be the largest and most unique retail/entertainment destination site of its kind in the state.

Mr. Hutchinson advised that one of the issues that the City has spent a great deal of time considering is the incentive package for the proposed retail development. He explained that the City views this project as a partnership with the development team in terms of making it a destination site not only for the local community, but also for residents throughout the state and beyond. Mr. Hutchinson referred to a document entitled "City of Mesa Incentive Package for Proposed Retail Development" and outlined the various incentives as follows:

Developer's Incentives

\$42 million of incentives to be derived from:

- City participation in infrastructure costs that will benefit the entire site.
- Fee waivers.
- Sharing of City's 1% sales tax from construction.
- Sharing of City's 1% sales tax on retail sales over a specific time period. Amount and time period to be determined. Interest to be paid on a portion of the sales tax rebates.
- Incentives will be paid from retail activity occurring on the site.

Auto Dealers' Incentives

- Sharing of City's 1% sales tax on auto sales for a ten-year period.

Mr. Hutchinson commented that many auto dealers are relocating to more readily accessible freeway locations per the suggestion of the manufacturers. He stated that there are a number of Mesa dealers that are being asked to consider such freeway locations and noted that the proposed auto mall portion of "The Riverview at Dobson" would provide the City with the flexibility and opportunity to accommodate such requests.

Mr. Hutchinson emphasized that the incentive package is still being formulated and that the City has agreed in concept with the development team regarding such incentives. He added that pending Council direction this morning, the incentive package would be incorporated into the

Development Agreement and subsequently brought back for Council consideration in the future. Mr. Hutchinson further commented that Ernst & Young has been retained to prepare a market analysis for the proposed development. He expressed confidence that the development would generate a significant amount of sales tax for the City and noted that Mesa would share a portion of the sales tax with the developer as the project develops. Mr. Hutchinson also stated that staff would come back to the Council with more information when the Development Agreement is finalized and the market analysis is completed. He added that because Mesa does not have a city property tax and is dependent on sales from retail business, it is incumbent upon the City to attract new development to generate much-needed sales taxes.

Vice Mayor Walters, in whose district the project is located, expressed appreciation to Kimco and De Rito Partners for their proactive efforts in soliciting input from the neighborhoods from the very beginning of this process. She also commented that the City of Mesa is very fortunate to have Mr. Saemisch as the project's architect. Vice Mayor Walters cited a number of reasons why the City is participating in the project including the desire for a high quality project, proper traffic flow in and around the site, sound infrastructure that would benefit the area, and to ensure that the project does not overly impact the surrounding well-established neighborhoods. She emphasized that "this is not a done deal today," but rather just a "kicking off" of the public process and added that there would be many opportunities for public input in the future.

Discussion ensued relative to the fact that Mesa would be the home for two new retailers, Bass Pro Shops and Cinemark; that Bass Pro Shops is one of the largest retailers in the nation, has 22 retail locations nationally, each of which are approximately 180,000 to 200,00 square feet; and that Cinemark is one of the largest national movie theater chains with over 3,000 movie screens.

Vice Mayor Walters stressed that Riverview Park, including the golf course and ball fields, would not be touched by the development and not become a part of this discussion other than the issue of traffic control in the area.

In response to a question from Councilmember Jones, Mr. Hutchinson clarified that the City would pay some interest (in the range of 7%) to the developer for funding a significant amount of the money for the project as opposed to the City incurring those expenses.

Councilmember Jones commented that he is pleased to know that the developers have enough confidence in the project that they are willing to front the money and that the financial risk is not on the part of the City.

Councilmember Whalen acknowledged Mr. De Rito's vast experience in the real estate industry and noted that the proposed development is a joint project between Kimco and De Rito Partners.

Further discussion ensued relative to a potential timetable for the project and the fact that the City will schedule a Planning & Zoning meeting in October to review the developer's zoning proposal; that the Board's recommendation, along with the Development Agreement, would be considered by the Council at a future meeting; and that the developer would continue to solicit public input throughout the entire development process.

Councilmember Whalen acknowledged Mr. Hutchinson for responding to the Council's request to bring an innovative and unique project to the proposed development site.

Councilmember Griswold stated that he is generally not a proponent of the City providing incentives for developers. He noted, however, that because Mesa anticipates generating significant sales tax revenues at "The Riverview at Dobson," in his opinion, it would be appropriate to offer such incentives.

Councilmember Thom welcomed the development team to Mesa and commented that the retail complex would be a valuable asset to the City. She expressed appreciation for the "pedestrian friendly" designs, colorful landscaping and ample parking.

Councilmember Rawles noted that he does not have a philosophical problem with incentives that bring development into the City. He expressed concern, however, regarding a specific aspect of the project and stated that he would remain noncommittal for the present time and not participate in today's vote regarding this item.

In response to Councilmember Rawles' comments, City Attorney Debbie Spinner clarified that per the City Charter, a Councilmember cannot abstain from voting unless he or she has a conflict of interest.

Councilmember Rawles stated that in light of Ms. Spinner's comments, he would oppose this item at this time, but not necessarily at a future vote. He explained that he is pleased with the negotiation efforts that have taken place thus far, but noted that there is one issue that he cannot discuss publicly today and is therefore not prepared to entirely accept the project at this time.

In response to a question from Vice Mayor Walters, Mr. Hutchinson advised that the City would provide numerous opportunities for citizens to participate in this development process including soliciting input through the Planning & Zoning Board. He stated that the Neighborhood Services Department is also very familiar with the site and would facilitate meetings to ensure that everyone has an opportunity to examine and discuss the project plans. Mr. Hutchinson added that with regard to the Development Agreement, the public would also have many opportunities to review it prior to the Council taking action on it.

Vice Mayor Walters reiterated her previous comments that the Council is not approving the incentive package or the Development Agreement today, because if it did, it would be done without a public process, which the City would not do. She commented, however, that what the Council is doing is instructing the City Manager to work with Kimco and De Rito and to proceed with the preparation of a Development Agreement which would then be brought back to Council for consideration prior to a vote on the matter. Vice Mayor Walters added that there is a well-established neighborhood that backs up to the Tempe Canal and stressed that it is important that those residents are buffered from the development area.

Councilmember Whalen acknowledged Bob Hurley and his sisters for their continued goodwill and cooperation with the City of Mesa. He stated that without the Hurley family, who has owned this property for over 100 years, this project would not be going forward.

It was moved by Councilmember Whalen, seconded by Councilmember Thom, to direct Mesa City staff to negotiate a Development Agreement with Kimco/De Rito Riverview, LLC, which will provide the economic incentives set forth in the City of Mesa Incentive Package for Proposed Retail Development, in exchange for the development of "The Riverview at Dobson" as outlined in the presentation by Kimco and De Rito Partners.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Thom-Walters-Whalen
NAYS - Rawles
ABSTAIN - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those voting.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

2. Further discussion and consideration of proposed amendments to Title 6, Chapter 10 of the Mesa City Code pertaining to a variety of public park regulations.

Mr. Hutchinson stated that alcohol use in City parks was the focus of a prior Council discussion. He advised that information has been provided to the Council that compares Mesa's regulations to the regulations in effect in other Valley communities. Mr. Hutchinson suggested that the alcohol-related section be removed from the proposed ordinance, and that the remaining amendments be considered separately. He added that the Council could refer the alcohol-related section back to the Parks and Recreation Board for additional discussion and citizen input.

Councilmember Rawles stated that he could support the proposed ordinance if the alcohol-related section was removed.

Discussion ensued relative to the fact that the City of Mesa's alcohol permit fee is \$20, while other communities charge fees in the range of \$2 to \$10; that the City of Mesa is the only jurisdiction to have a "group" requirement; that only the City of Mesa requires a majority of the group to be of a legal drinking age; that the State of Arizona prohibits public intoxication, drinking from an open container, providing liquor to a minor, possession of alcohol by a minor, and public urination; and that the City of Mesa has a separate law prohibiting glass containers in City parks.

Councilmember Rawles expressed the opinion that the alcohol-related section is potentially discriminatory against large family gatherings comprised of more children than adults, particularly for Hispanic citizens. He stated that he did not understand the necessity for regulations and permits regarding alcohol in parks. Councilmember Rawles added that he would like to treat Mesa citizens as responsible adults, and he noted that anyone violating existing laws could be arrested by the Police Department.

Vice Mayor Walters expressed the opinion that a primary obligation of the City relates to the safety of children in community parks. She agreed that the alcohol-related regulations may be too stringent, but she also noted that proving each individual offense is more difficult than having a group comply with the park permit restrictions. Vice Mayor Walters concurred with Mr. Hutchinson's recommendation that the alcohol-related section be removed and forwarded to the Parks and Recreation Board along with the comments of the Council. She also expressed concern relative to potential impact on neighborhood parks should all alcohol restrictions be removed.

Councilmember Thom stated the opinion that the regulations imposed in City parks were overly restrictive. She expressed support for removing the alcohol-related section and considering the

balance of the ordinance separately. Councilmember Thom further stated the opinion that the City's problem was not that insufficient rules are in place, but rather that the facilities are inadequate. She further stated that the City parks need additional baseball fields and parking facilities.

Mayor Hawker noted that the Parks and Recreation Board is familiar with the subject issues, and that the Board would be the appropriate body to consider the alcohol-related regulations.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that the ordinance amending Title 6, Chapter 10 of the Mesa City Code be introduced without the alcohol-related component.

Councilmember Rawles outlined the issues he considered to be a high priority for review by the Parks and Recreation Board, including the permit cost and the restriction that a majority of a group must be of legal drinking age. He concurred with Vice Mayor Walters' view that children need to be protected, but he cautioned that the method utilized should not infringe on other freedoms and rights in the process.

In response to a question from Assistant City Attorney Alfred Smith, Councilmember Rawles stated that the Parks and Recreation Board should also consider expanding the availability of alcohol permits to additional City parks.

Vice Mayor Walters expressed the opinion that rules support the liberty of all citizens being able to enjoy the park system, and that the ultimate liberty may require a compromise.

Councilmember Thom stated the opinion that alcohol should be allowed in all City parks and that permits should be required without a fee. She noted that if a fee is required, the amount charged should be less than \$5. She expressed support for the City of Glendale model that requires identification to obtain the permit, which must be carried by the person during the activity. Councilmember Thom also opposed the requirement that a majority of a group must be of legal drinking age.

Councilmember Griswold stated that the City has a good parks system, and he expressed support for the motion.

Councilmember Rawles encouraged staff to cooperate with the Parks and Recreation Board to modify the alcohol-related section and present the recommendations to the Council in a timely manner.

Mayor Hawker called for the vote.

Carried unanimously.

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.

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

Thursday, August 26, 2004, 7:30 a.m. – Study Session

Thursday, August 26, 2004, 9:30 a.m. – General Development Committee Meeting

Monday, August 30, 2004, 3:00 p.m. – Police Committee Meeting

Monday, August 30, 2004, TBA – Study Session

Monday, August 30, 2004, 5:45 p.m. – Regular Council Meeting

5. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

6. Items from citizens present.

There were no items from citizens present.

7. Adjournment.

Without objection, the Study Session adjourned at 8:32 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 19th day of August 2004. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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