

## COUNCIL MINUTES

January 13, 2005

The City Council of the City of Mesa met in a Special Council Meeting in the lower level meeting room of the Council Chambers, 57 East 1st Street, on January 13, 2005 at 7:30 a.m.

### COUNCIL PRESENT

Mayor Keno Hawker  
Rex Griswold  
Kyle Jones  
Tom Rawles  
Janie Thom  
Claudia Walters  
Mike Whalen

### COUNCIL ABSENT

None

### STAFF PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

1. Consider the following resolution:

- a. Designating a Special Election date and purpose; designating the deadline for filing arguments for and against ballot measures; and designating the deadline for voter registration – Resolution No. 8392.

Mayor Hawker and Councilmember Rawles declared potential conflicts of interest and said they would refrain from discussion/participation in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

City Attorney Debbie Spinner reported that a lawsuit filed yesterday against the City questions the legality of the referendums. She recommended that the Council move forward to schedule the election on May 17, 2005, and she noted the possibility that the City will not be required to expend substantial funds for the election until the court has resolved the issue.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that Resolution No. 8392 be approved.

Referring to the lawsuit, Ms. Spinner advised that the courts take timing into consideration and the Statutes provide for an accelerated hearing so that an election can go forward. She added that an appeal of a court ruling would also be addressed in an accelerated hearing.

Councilmember Whalen confirmed that the resolution sets the date of the Special Election for Tuesday, May 17, 2005, designates Wednesday, February 16, 2005 as the date for arguments advocating or opposing ballot measures to be submitted to the Mesa City Clerk's Office, and

states that Monday, April 18, 2005 is the date by which eligible citizens must be registered in order to vote in the Special Election.

In response to a comment from Councilmember Griswold, Ms. Spinner clarified that the lawsuit filed by Larue Gates and KRS Acquisitions Corporation questions the appropriateness and legal sufficiency of the petitions.

Responding to a question from Councilmember Thom, City Clerk Barbara Jones stated that the City's cost to hold the Special Election would be approximately \$200,000 because the City would not be consolidating with any other entity and therefore, there would not be any cost sharing. Ms. Jones advised that currently the March 6<sup>th</sup> Primary Election is strictly a District election (three Council seats) rather than a Citywide election. She added that should the Council not call a Special Election for May 17, 2005, these issues (the referendums) would be placed on the City's Primary Election ballot in March 2006.

Ms. Thom noted that Ms. Spinner issued a legal opinion stating that the Riverview/Dobson development agreement does not require voter consideration, but she expressed the opinion that the agreement should be placed on the ballot for voter consideration due to the fact that the document provides a "gift" of \$80 million to individuals for the purpose of building a multi-purpose, entertainment and sports facility that is estimated to cost in excess of \$1.5 million.

Ms. Spinner expressed the opinion that the two development agreements do not fall within the proposition to require a public vote because the Bass Pro Shop is classified as a retail store operation rather than a sports complex.

Vice Mayor Walters noted that the Council would comply with the legal definitions of a sports complex and entertainment venue.

In response to Vice Mayor Walters' question regarding the possibility of the Council placing the development agreement on the ballot, Ms. Spinner advised that a legal precedent exists which states that municipalities do not have the authority to initiate the placement of issues on the ballot.

Councilmember Griswold stated the opinion that an earlier reference characterizing the \$80 million as a "gift" was inappropriate. He noted that the amount was the City's investment, and that the City's projected revenues far exceed the amount of the investment.

Vice Mayor Walters called for the vote.

Upon tabulation of votes, it showed:

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

Vice Mayor Walters declared the motion carried unanimously by those voting and Resolution No. 8392 approved.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

2. Items from citizens present.

There were no items from citizens present.

3. Adjournment.

Without objection, the Special Council Meeting adjourned at 7:45 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 Special Council Meeting of the City Council of Mesa, Arizona, held on the 13th day of January 2005. 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

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