

COUNCIL MINUTES

May 2, 1997

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 May 2, 1997 at 7:30 a.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh
Joan Payne
Wayne Pomeroy
Jim Stapley

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Wayne Balmer
Neal Beets
Tanya Collins
Linda Crocker
Mike Hutchinson
Lars Jarvie
Barbara Jones
Harry Kent
Wayne Korinek
Larry Lines
Keith Nath
John Oliver
Ellen Pence
Bryan Raines
Tom Remes
Becky Richardson
Denise Samuel
Mindy White
Ralph Wisz
Others

OTHERS PRESENT

Margie Frost
Richard Manley
Dan Nowicki
Scott Rhodes
Rick Romley
Others

(Items on the agenda were discussed out of order but for purposes of clarity will remain as listed on the agenda.)

1. Presentation and discussion by Maricopa County Attorney Rick Romley and other representatives from the County Attorney's Office concerning access by minors to pornographic materials in news racks.

Maricopa County Attorney Rick Romley addressed the Council and introduced members of his staff present at the meeting. Mr. Romley thanked the Council for allowing him an opportunity to address First Amendment rights and access by minors to pornographic materials. Mr.

Romley informed the Council that the criminal investigation and prosecution area is one of the most difficult and complex areas of the law. Mr. Romley pointed out that in accordance with the law, pornography is not illegal while obscene materials, distributed throughout the community, are illegal. Mr. Romley added that different standards exist when children are involved.

Discussion ensued relative to the previous lack of criminal indictments and prosecutions in this area, the necessity of proving that the action goes beyond community standards in order to obtain a conviction in Arizona, efforts to enact legislation changing the standards from community to state-wide standards, the Maricopa County Attorney's Office's aggressive prosecution policy, specific cases successfully prosecuted by Mr. Romley's office, and adult book stores.

Mr. Romley informed the Council that new legislation has been adopted and signed by the Governor which places additional requirements on vending machines. Mr. Romley briefly highlighted the contents of the legislation, which will be in effect by approximately the end of July and noted that the law states that vending machines not located behind a counter or barrier are subject to new requirements. Mr. Romley stated that owners of coin operated vending machines are now required to initiate specific, precautionary measures to ensure that minors cannot purchase or gain access to the materials. Mr. Romley added that the Maricopa County Attorney's Office intends to aggressively pursue vending machine violations and noted that this legislation has been successfully implemented in California.

Additional discussion ensued relative to Mr. Romley's intention to initiate a mass mailing to owners of vending machines informing them of the new legislation, the seizure of vending machines which are not in compliance, and anticipated positive effects of the new legislation on communities.

Mayor Brown commented on Council concerns relative to the issue and commended Mr. Romley and the staff of the Maricopa County Attorney's Office on their efforts to protect the youth of the community.

2. Hear a report and consider a proposal by the Mesa Community Action Network (MCAN) concerning an East Valley Homeless Shelter.

Neighborhood and Community Assistance Director Tanya Collins informed the Council that in late 1996, the Mesa Community Action Network (MCAN) presented the Council with a preliminary feasibility study relative to the establishment of an East Valley homeless men's shelter. Ms. Collins added that following additional study and analysis, MCAN has developed an in-depth proposal outlining procedures that the organization has initiated and envisions continuing in an effort to develop the proposed shelter. Ms. Collins introduced MCAN Deputy Director Margie Frost and Scott Rhodes, MCAN General Counsel to those present at the meeting.

Mr. Rhodes briefly discussed the fact that Mesa is the largest East Valley city and contains over fifty percent of the East Valley's homeless population, potential benefits to be gained as a result of the shelter, efforts initiated by MCAN to engage the cities of Chandler, Scottsdale, and Tempe in the project, the importance of receiving assurances of both political and financial

support from the Mesa City Council in order to attract other participants, MCAN's intention to actively pursue grants, donations, and federal funding, proposed shelter locations, facility description and operational guidelines, including mandatory case management, and proposed costs.

Mr. Rhodes emphasized that the proposed shelter is not intended as a replacement for Mesa's permanent shelter but will operate in addition to the winter shelter at the Armory.

Additional discussion ensued relative to difficulties experienced by the homeless seeking employment, capital funding, shelter goals.

Mr. Rhodes advised that MCAN is requesting \$300,000 from the City of Mesa and noted that the Community Development staff has recommended that \$150,000 in Community Development Block Grant (CDBG) contingency funds be allocated to the project. Mr. Rhodes requested that the additional \$150,000 in general revenue funds be approved by the Council. Mr. Rhodes also requested that the Council authorize staff to proceed with the site acquisition, subject to all necessary City Council approvals.

In response to a question from Councilmember Stapley, Mr. Rhodes stated the opinion that the proposed site is the optimum location for the facility. Mr. Rhodes added that the site is located in an unincorporated area and is not part of the City of Mesa.

Councilmember Kavanaugh spoke in support of Mesa assuming a leadership role relative to the establishment of the proposed shelter and noted that he supports proceeding with the project.

In response to a question from Councilmember Giles, Ms. Collins advised that the City of Mesa will own the property and that the County's requirement for a Special Use Permit must be met in order to operate the proposed facility. Councilmember Giles concurred that Mesa should assume a lead position relative to this issue but cautioned staff to include protection language in the lease documents in order to avoid future problems.

Councilmember Pomeroy indicated that he supports the goals of the project and added that efforts should continue to gain the support and commitment of surrounding cities.

In response to a question from Councilmember Payne relative to the success rate of a similar facility which currently operates in Tucson, Ms. Collins advised that information relative to this matter will be gathered and forwarded to Council.

Vice Mayor Gilbert discussed funding and noted that he strongly supports the proposed project. Vice Mayor Gilbert recommended that Mayor Brown contact the Mayors of surrounding cities to solicit support and financial commitment. Vice Mayor Gilbert added that the possibility of working with the Salt River-Pima Indian Community in an effort to employ homeless men at the landfill should be explored.

Councilmember Stapley spoke in favor of proceeding with the project.

Mayor Brown noted that he supports the proposal but cautioned MCAN to proceed with caution. Mayor Brown commented on the fact that the facility will require future operational funding.

Mayor Brown indicated that Council support exists relative to this issue and directed staff to include this issue on the agenda of a budget review session for Council consideration and action

3. Acknowledge receipt of minutes of meetings of various boards and committees.

- a. Design Review Board meeting held April 21.
- b. Downtown Development Committee meeting held April 10.
- c. Housing and Human Services Advisory Board meeting held April 17.
- d. Parks and Recreation Board meeting held April 10.

It was moved by Councilmember Stapley, seconded by Councilmember Pomeroy, that receipt of the above listed minutes be acknowledged.

Carried unanimously.

(At 8:45 a.m. Mayor Brown yielded the gavel to Vice Mayor Gilbert and was excused from the remainder of the meeting.)

4. Discuss and consider fees for HoHoKam Stadium and Fitch Park ballfields as recommended by the Parks and Recreation Board. (See Item 3d)

(This item was discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

Community Services Manager Wayne Korinek briefly discussed a proposed fee schedule for HoHoKam Stadium and Fitch Park ballfields. (See Attachment.) Mr. Korinek informed the Council that it is the goal of the overall fee structure to recover direct maintenance and operating costs associated with the facilities during the 11 months of non-spring training.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Stapley, that the recommendations of staff be approved.

Vice Mayor Gilbert declared the motion carried unanimously by those present.

4.1 Consider Reconsideration of Zoning Case Z96-87.

City Manager Charles Luster advised that a request for reconsideration of Zoning Case Z96-87 was received from Mr. Ralph Pew, an attorney representing the applicant.

In response to a request from Vice Mayor Gilbert, City Attorney Neal Beets briefly reviewed procedures for the reconsideration process. Vice Mayor Gilbert commented that he has reviewed the letter submitted by the applicant and encouraged the applicant to closely review the stipulations attached to a recent zoning case which received the unanimous approval of the Council.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that the applicant's request for reconsideration of Zoning Case Z96-87 be approved.

Councilmember Giles concurred with Vice Mayor Gilbert's comment regarding the importance of reviewing the recent zoning case which received unanimous Council approval and indicated that unless project density levels were revised, he would not vote in support of the case.

Councilmember Pomeroy stated the opinion that the case should be referred back to the Planning and Zoning Board for review of density levels and added that he would not support the motion for reconsideration.

Upon tabulation of votes, it showed:

AYES -	Brown-Gilbert-Giles-Kavanaugh-Payne-Stapley
NAYS -	Pomeroy
ABSENT-	None

Mayor Brown declared the motion carried by majority vote.

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

Mayor Brown advised that there were no reports on meetings and/or conferences attended.

6. Scheduling of meetings and general information.

City Manager Charles Luster advised that the meeting schedule is as follows:

Friday, May 16, 1997, 7:30 a.m. - Council Study Session

Friday, May 16, 1997, Council tour of Electric and Utility Departments immediately following the Council Study Session

Community Development Manager Wayne Balmer informed the Council that Williams Gateway Airport has just received foreign trade zone designation and discussed this important occurrence.

7. Review items on the agenda of the May 5, 1997 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 agenda items.

5. Consider the following contracts:

- q. Landscaping and street lighting for Main Street medians between Country Club and Hobson, parking lot improvements on Pepper Street east of Robson and landscaping and parking lot improvements on the north and south side of the Mesa City Plaza Building.

In response to a question from Councilmember Pomeroy, City Attorney Neal Beets stated the opinion that Mr. Pomeroy is required to declare a conflict of interest relative to the parking lot improvements. Mr. Beets added that this item should be removed from the consent agenda.

Mayor Brown directed staff to remove this item from the consent agenda.

9. Consider the following ordinances:

- a. Relating to City of Mesa elections; repealing Section 1-8-1 of the Mesa City Code; and amending Title 1, Chapter 8 of the Mesa City Code by adding a new Section 1-8-1 and 1-8-2; changing the designation of Title 1, Chapter 8 of the Mesa City Code to Qualified Electors."

Councilmember Kavanaugh requested that this item be removed from the consent agenda.

Mayor Brown directed staff to remove this item from the consent agenda.

8. Prescheduled public opinion appearances. Maximum of three speakers for five minutes per speaker.)

Mayor Brown advised that there were no prescheduled public opinion appearances.

9. Items from citizens present. (Maximum of three speakers for five minutes per speaker.)

Mayor Brown advised that there were no items from citizens present.

10. Adjournment.

It was moved by Councilmember Stapley, seconded by Councilmember Giles, that the Study Session adjourn at 8:53 a.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

Attachment

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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 5th day of May 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 27th day of May 1997

BARBARA JONES, CITY CLERK

The fee schedule being recommended, for the most part, is designed to provide for the revenue to help offset some of the maintenance and operating costs. Since these facilities are considered state-of-the-art, it is important to maintain them at the high quality that is expected..

Holmwood advised that staff had spent a great deal of time researching the fee issue with the proposal being based on the following considerations: 1) the Valley market for similar facilities; 2) the quality of the facilities; 3) the costs to operate and maintain a much more sophisticated facility; the demand for use of such a unique facility; and 5) the desire to have this facility remain a very special community facility.

Holmwood then highlighted the following proposed fees:

A. Hohokam Stadium

	<u>Current Base Fee</u>	<u>Proposed Base Fee</u>
Category 1-City of Mesa and Mesa Public Schools Events <i>Authorized events which are organized and staged by the City of Mesa and/or Mesa Public Schools.</i>	n/a	none
Category 2-Non-Profit Groups: Non-fund raising activities, per day <i>Non-profit (IRS 501(c)(3)) organizations (i.e., youth sports groups, Mesa Parent Youth Athletic Association, YMCA, Boys and Girls Club, etc.) which do not charge admission to the event except to cover the costs of the event.</i>	n/a	\$100.00
Category 3-Non-Profit for Fund Raising and Political Groups, per day <i>Non-profit (IRS 501 (c)(3)) organizations that intend to stage an event for the primary purpose of generating revenue for charitable purposes. A minimum of 40% of gross revenue must be contributed to the listed charitable organization.</i>	n/a	300.00
Category 4-Commercial Uses, per day <i>Groups which stage events for profit or business purposes (i.e., trade shows, entertainment shows, baseball fantasy camps, corporate events and picnics.)</i>	n/a	1400.00
Category 5-Area Use Fee, per four hours <i>Hohokam Stadium has several areas (pavilions, plazas, open space areas, concourse, etc.) which will accommodate weddings, birthday parties, receptions, anniversaries, etc. Because of health regulations, and liability concerns, a group renting Hohokam for this purpose must also contract with an approved catering company for all food and beverages. NO food or beverages may be brought into Hohokam, other than by an approved caterer. The caterers menu and information will be provided to customers by the Hohokam Facility Coordinator.</i>	n/a	250.00-500.00
Category 6-Meeting Room (per hour, minimum two hours) <i>The Hohokam Stadium has a meeting room that will accommodate up to 60 people for business or training meetings.</i>	n/a	75.00

B. Additional Stadium/Field Operational Charges

Hohokam Stadium

(Items identified with an asterisk represent the direct City "out of pocket" costs for the service provided)

	<u>Current Base Fee</u>	<u>Proposed Base Fee</u>
Lights, per hour*		
Regular lighting*	27.00	40.00
High level lighting*	n/a	100.00
Field preparation, per prep*	60.00	75.00
Field supervision, per hour, per employee*	9.00	15.00
Scoreboard rental-does not include Diamondvision	n/a	25.00
Scoreboard operator, per hour, per employee*	n/a	10.00
Damage and clean-up deposit (refundable)	125.00	400.00
Parking lot for special events, per day	n/a	1000.00
Hohokam Practice Field (unlighted)		
Field preparation*	60.00	75.00
Field supervisor, per hour, per employee*	9.00	15.00
Damage and clean-up deposit (refundable)	n/a	200.00
Fitch Park Ballfields		
Field preparation, per field, per day*	60.00	75.00
Field lights, per hour*	12.00	40.00
Field supervisor, per hour per employee*	9.00	15.00
Damage and clean-up deposit, per field (refundable)	125.00	100.00

Holmwood said Category 1 includes City of Mesa and Mesa Public Schools events at no base charge. The City has had a cooperative working relationship with Mesa Public Schools for many years in use of school facilities for City recreation purposes. There may be some out-of-pocket costs assessed to users.

The Category 2 proposed base fee is \$100 and includes groups who may want to use the facility for a special event. Out-of-pocket costs would be assessed over and above the \$100.

The Category 3 proposed base fee is \$300 and includes groups who charge admission. Out-of-pocket costs would be additional.

The Category 4 proposed base fee is \$1,400 and covers commercial use of the stadium. Out-of-pocket costs would be additional.

The Category 5 proposed base fee is \$250 to \$500, depending on the area of the stadium used and the number of participants. Concerning catering of the event, an approved caterer must meet health and liability criteria.

The Category 6 proposed base fee is \$75 for use of the large meeting room.

Holmwood said the proposed fees under Section B (Additional Stadium/Field Operational Charges) are related to actual costs. As an example, field preparation involving maintenance staff is approximately \$84 with a proposed base fee of \$75, and stadium lighting is \$112 per hour for high level and \$52 per hour for regular level, with proposed base fees of \$100 and \$40 respectively.