

COUNCIL MINUTES

October 1, 1998

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 October 1, 1998 at 7:32 a.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
John Giles
Keno Hawker
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Don Ayers
Pauline Backer
Wayne Balmer
Cindy Barris
Neal Beets
Denise Bleyle
Jamie Brennen
Linda Crocker
Mike Hutchinson
Harry Kent
Peter Knudson
Ron Krosting
Dorinda Larsen
Larry Lines
Frank Mizner
Keith Nath
Ellen Pence
David Plumb
Bryan Raines
Andrea Rasizer
Tom Remes
Becky Richardson
Sharon Seekins
Jenny Sheppard

STAFF PRESENT (CONT.)

Jan Strauss
Ursula Strephans
Doug Tessendorf
Mindy White
Paul Wilson
Jim Wright

OTHERS PRESENT

Steve Betts
Rick Elder
Jim Glaser
Maryanne Jennings
Bonnie Koppell
Joan Newth
Joe Rhein
Malcolm Ross
Jessica Russell
Robbie Sherwood
Louis Stradling
Claudia Walters
Marty Whalen
Don Winslett
Others

1. Review items on the agenda for the October 5, 1998 Regular Council Meeting.

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

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

5. Consider the following contracts.

- a. Four-inch high-pressure gas main, East University Road between Sossaman Road and 80th Street. City of Mesa Project No. 98-66.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

- b. Water line replacements - 72nd Street, Broadway to Edgewood and 40th Street, Broadway to Main Street. City of Mesa Project No. 97-88.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

- c. New Utilities building and Materials/Supply warehouse addition at the 6th Street Service Center. City of Mesa Project No. 97-04.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

6. Consider the following ordinance.

- *a. Relating to the Transaction Privilege and Use Tax Code; grandfathering certain transactions; and providing for retroactivity.

In response to a question from Councilmember Pomeroy, City Attorney Neal Beets clarified that under the provisions of the ordinance, contracts entered into prior to August 1, 1998 (the effective date for the recently approved sales tax increase) and specifying a 1 percent sales tax will be grandfathered at such rate, and the new rate of 1.5 percent will not apply.

Vice Mayor Giles suggested that this item be removed from the consent agenda for explanation at the Regular Council Meeting.

7. Consider the following resolutions.

- *a. Authorizing the City Manager to execute an agreement with the Town of Gilbert for the widening of Baseline Road from Stapley Drive (Cooper Road) to approximately 2,000 feet east of Stapley Drive.

Councilmember Pomeroy questioned the limited area to be widened. City Manager Charles Luster advised that the widening of this segment is a component of the construction project at the northeast corner of Baseline and Stapley. Public Works Manager Harry Kent stated that a public hearing was held recently concerning the widening of additional portions of Baseline Road.

- *c. Extinguishing a portion of a public utilities and facilities easement at the northwest corner of Country Club Drive and Fairway.

Councilmember Hawker noted concerns expressed by neighbors when the property was originally zoned. Councilmember Hawker requested that this item be removed from the consent agenda for additional discussion.

Mayor Brown advised that staff has been working with the neighbors relative to this matter.

- *h. Vacating a portion of the 2800 block of North Usery Pass Road.

In response to a question from Councilmember Davidson, Mr. Kent explained the purpose of the request to vacate.

Councilmember Hawker requested further information pertaining to the right-of-way and asked that this item be removed from the consent agenda.

- 8. Consider the following recommendation from the Parks and Recreation Board.

- *a. Adopting proposed fee adjustments for the elementary after-school sports/recreation program.

Councilmember Jaffa expressed concern relative to the proposed fee adjustments and requested that this item be removed from the consent agenda.

2. Discuss and consider the final recommendations of the Ad Hoc Committee on Ethics.

Councilmember Kavanaugh stated that at the direction of the Mayor, the Ad Hoc Committee on Ethics has developed a proposed code of ethics for Councilmembers and members of the City's Boards and Commissions. Councilmember Kavanaugh introduced members of the Ad Hoc Committee present at the meeting and thanked each for their participation. Councilmember Kavanaugh additionally expressed appreciation to staff for their assistance.

Mayor Brown commended Councilmember Kavanaugh for his leadership and the members of the Committee for their efforts.

Councilmember Kavanaugh related discussions by the Committee pertaining to the philosophy and components of the ethics code. Councilmember Kavanaugh noted the anticipated approach of complete disclosure in relation to gifts/entertainment and spoke concerning the importance of training as a key element. Councilmember Kavanaugh stated the intent to present recommended Charter amendments to the voters to create an Ethics Advisory Board and establish enforcement mechanisms and said that the ethics code can either be adopted contingent on the Charter revisions or adopted independently while awaiting the Charter amendments.

Vice Mayor Giles questioned the proposed Charter provision for inquiries relating to the prior arrest of an individual and expressed concern that such authority may be utilized inappropriately. Councilmember Kavanaugh explained the purpose of the measure, commenting that a supermajority vote of Council (5 members) is required in order to take action.

In response to questions from Vice Mayor Giles, Councilmember Kavanaugh noted the permanent status of the Board and the anticipated training and advisory roles. City Attorney Neal Beets explained the content and purpose of the penalty provisions.

Councilmember Davidson spoke regarding issues such as civil disobedience and commented that the code appears to minimize the opportunity for informal confrontation. Councilmember Davidson stated concern that the proposal may be misused.

Mayor Brown noted difficulties encountered in three recent situations given the limited provisions presently outlined in the City Charter.

Councilmember Pomeroy stated general support for the code. In response to a question from Councilmember Pomeroy, Councilmember Kavanaugh outlined criteria pertaining to the disclosure of gifts.

Councilmember Hawker spoke in favor of the code in general, particularly the emphasis on training. Councilmember Hawker expressed concern that inadvertently omitting items to be disclosed may result in noncompliance/violation. Councilmember Hawker further stated concern relative to the Charter provision for an inquiry of members who have been "arrested" rather than "arrested and prosecuted" and the interpretation of language such as "engaged in any other conduct demonstrating a lack of fitness for office." Councilmember Hawker said that he does not support the proposed Charter amendments as written and suggested further review.

Mr. Beets stated the opinion that much of the process will involve informal mechanisms. Mr. Beets outlined opportunities for opinions/advice from the City Attorney and the Ethics Advisory Board.

Councilmember Jaffa thanked the Committee for their efforts. Councilmember Jaffa spoke in favor of the educational component but expressed concern pertaining to the interpretation of language within the proposal and the potential for misuse. Councilmember Jaffa recommended additional consideration of the issue.

Councilmember Kavanaugh noted limitations in the existing Charter language and stated the opinion that Charter revisions are necessary. Councilmember Kavanaugh encouraged adoption of the ethics code and suggested further review of the proposed Charter amendments prior to submission to the voters.

Following additional brief comments, Mayor Brown stated that it is Council's general consensus to proceed with the code of ethics, particularly the training aspect, but recommended that Councilmembers be provided an opportunity to submit specific language revisions. Mayor Brown requested that Mr. Luster schedule a special session to further consider this matter.

3. Hear an update on the "Growing Smarter" legislation by Steve Betts.

Steve Betts presented background information regarding the "Growing Smarter" legislation, developed with the assistance of the Governor and adopted by the Legislature this past Spring. Mr. Betts stated that the legislation is the result of input from a large cross-section of individuals and is based on four guiding principles: a) better manage inevitable growth, b) maintain local control, c) work with existing programs instead of generating additional encumbrances, and d) avoid litigation (do not establish arbitrary boundary lines).

Mr. Betts highlighted components of the legislation, including local general plans, a Growth Commission, and an open space acquisition program. Mr. Betts explained each component and noted four elements to be added to local general plans over the next two years: open space designations, identification of the environmental impact of growth, designation of areas in which to promote growth, and the cost of development. Mr. Betts noted that in an effort to strengthen local planning tools, strict conformity to local general plans will be required and a 2/3 majority will be necessary to approve general plan amendments.

Mr. Betts distributed a brochure and outlined Proposition 303, a related measure to appear on the November 3, 1998 General Election ballot. Mr. Betts stated that Proposition 300 would provide \$20 million of existing State general revenue each year for 11 years to purchase or lease State trust land for preservation as open space. Mr. Betts clarified that pursuant to the measure, the State cannot mandate local governments to adopt certain growth-management ordinances, boundaries, or other restrictions.

Mr. Betts responded to questions from Council pertaining to the funding (no new taxes) and the impact of the Growing Smarter legislation and Proposition 300 on the City's general plan.
Mayor Brown thanked Mr. Betts for the presentation.

4. Hear and consider a report from Malcolm Ross regarding the Mesa Verde Sports Club and Resort project.

Malcolm Ross, President of Interactive Leisure Resources (ILR), advised that a status report concerning financing for the Mesa Verde Sports Club and Resort project has been provided to Council. Mr. Ross stated that ILR has received a conditional commitment from Parkhurst Development for joint venture financing and that remaining requirements include approval from the City and the creation of a standby letter of credit. Mr. Ross noted time frames relative to the letter of credit.

Mr. Ross advised that ILR continues to simultaneously pursue alternative financing proposals. Mr. Ross reported that RCI Exchange has been selected as the exchange affiliation for the project and that a proposal for the management of the vacation club, hotel, and resort has been received from RCI Management. Mr. Ross indicated that ILR has additionally received a management proposal from Meristar (formerly Capstar), the owner/operator of the Sheraton Mesa. Mr. Ross outlined the RCI and Meristar proposals and introduced Don Winslett, representing Meristar Hotels.

Mr. Ross estimated that 120 to 180 days will be necessary to finalize financing components. Mr. Ross requested a 180-day extension to remove outstanding conditions for financing.

Mr. Ross spoke concerning the sports arena/entertainment center and introduced Jim Glaser of the Phoenix Adult Hockey Association, Rick Elder of the Arizona Thunder professional indoor soccer team, Joe Rhein of Select Artists Associates, and Gerry Herron, Chairman of the Board of Directors for ILR. Mr. Ross noted that the arena/entertainment center represents an additional element to the initial memorandum of understanding and that considerable efforts has been extended in recent months to develop the project.

Gerry Herron, Chairman of the Board of Directors for ILR, utilized overhead slides and presented a detailed description of the arena/entertainment center. Mr. Herron noted the location of various components, including soccer fields, the multipurpose arena, users ice arenas, concourse, box seats, concessions, meeting rooms, sports lounge, outdoor patio, and media booths. Mr. Herron expressed the opinion that the facility is a well-planned, "leading-edge" multipurpose event center.

Councilmember Kavanaugh expressed appreciation to ILR for their efforts and stated support for the request for an extension.

It was moved by Councilmember Jaffa, seconded by Vice Mayor Giles, to approve the status report and ILR's request for a 180-day extension.

Carried unanimously.

5. Discuss and consider a cigarette sales ordinance similar to one adopted by the Town of Gilbert.

It was moved by Councilmember Jaffa, seconded by Councilmember Kavanaugh, that a cigarette sales ordinance similar to one adopted by the Town of Gilbert be placed on the agenda for consideration at a Regular Council Meeting.

In response to a question from Councilmember Hawker, Vice Mayor Giles advised that the Retailers' Association has indicated that they are not opposed to the ordinance if it is similar to that of the Town of Gilbert.

Carried unanimously.

6. Discuss and consider a proposed Transportation Committee.

This item was not discussed at this time.

7. Discuss and consider an ordinance prescribing a revised policy for the disposal of firearms seized by the Police Department.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that an ordinance prescribing a revised policy for the disposal of firearms seized by the Police Department be placed on the agenda for consideration at a Regular Council Meeting.

City Attorney Neal Beets explained that pursuant to the proposed ordinance, firearms that are seized/appropriated by the Police Department shall be: a) returned to the lawful owner, b) utilized by members of the Police Department in the performance of their duties, c) transferred to other law enforcement agencies for utilization by those agencies, d) transferred to appropriate museums (if weapons have historical significance), or e) destroyed if not disposed of by the preceding methods.

Vice Mayor Giles questioned the amount of revenue generated by the sale of firearms under the City's existing practice. Chief Conway estimated that the sale of firearms seized/appropriated by the Police Department presently generates approximately \$30,000 annually for the City.

In response to a question from Councilmember Davidson, Chief Conway stated that it is his understanding that the proposed ordinance reflects procedures utilized in all other Arizona communities, with the exception of Tucson and Gilbert.

Councilmember Hawker spoke concerning the right of citizens to carry weapons and the revenue generated for the City under the present system. Councilmember Hawker expressed concern regarding the proposal to destroy weapons and spoke in favor of reviewing options such as trading weapons for items of use to the Police Department (e.g., ammunition).

Councilmember Kavanaugh stated the opinion that the proposed ordinance does not impede the rights of citizens but rather reflects a policy statement consistent with that of other communities.

Councilmember Jaffa suggested that this matter be continued to allow an opportunity to obtain additional information.

Mayor Brown noted the revenue presently generated by the sale of seized/appropriated firearms and questioned the impact of the proposed measure on the availability of weapons in the community.

Councilmember Davidson commented that while the supply of weapons in the community may not be materially affected, the proposed ordinance establishes a moral imperative that the City does not engage in the business of selling weapons.

Vice Mayor Giles stated that he will vote in opposition to the motion and suggested that funds derived from the sale of seized/appropriates weapons be dedicated to the assistance of victims of crime.

In response to a question from Councilmember Jaffa, Chief Conway briefly outlined present and prior procedures relative to the disposition of seized/appropriated firearms. Councilmember Jaffa expressed concern that the current practice allows individuals to profit through resale and suggested that consideration be given to implementing procedures that are similar, but less labor intensive, than those previously utilized. Upon a tabulation of votes, it showed:

AYES - Davidson-Kavanaugh-Pomeroy
NAYS - Brown-Giles-Hawker-Jaffa

Mayor Brown declared the motion failed.

Mayor Brown recommended that this item be referred to the Police Committee for further review.

8. Further review and consideration of the required configuration of houses in the Coventry Homes Mesa Northgrove Subdivision located at 32nd Street and Brown Road, north side (continued from the September 10, 1998 Study Session).

Councilmember Jaffa said that it is his understanding that when this case was presented to the Planning and Zoning Board and Council, all plans included a three-car garage, and the proposed development consisted of a mix of custom and production homes. Councilmember Jaffa noted that the custom development has not transpired (the subdivision now consists of production homes) and expressed concern relative to a model that has been constructed with a two-car garage.

Community Development Manager Wayne Balmer stated that the corresponding ordinance for this case does not stipulate three-car garages but concurred that representations by Coventry during the rezoning process referenced three-car garages. Mr. Balmer said that Coventry has indicated that the three-car garage is standard and preferred by the majority of buyers but that some buyers will prefer the option of converting the third-car garage into usable living space. Mr. Balmer advised that the two-car garage (model) has been converted to a three-car garage.

Stephen Earl, representing Coventry Homes, reiterated that a three-car garage is standard but commented that the option to convert the third-car garage into usable living space effectively results in a large and more expensive home. Mr. Earl reported that buyers additionally have the option of a fourth-car garage (on select larger lots) or a basement. Mr. Earl commented that a three-car garage was not discussed as a mandatory feature during the rezoning process and noted that neighboring development (competition) offers the option to convert the third-car garage.

Discussion ensued concerning surrounding uses/development and the aesthetics, value, and diversity provided by an optional bonus room.

Councilmember Jaffa stated the opinion that a major inducement for approval of the project was the custom-home development. Councilmember Jaffa spoke regarding the character of the neighborhood and expressed concern regarding the manner in which the subdivision may develop.

It was moved by Councilmember Jaffa that Coventry Homes be held to a minimum of three-car garages for the Mesa Northgrove subdivision.

Mayor Brown declared the motion dead for lack of a second.

Mayor Brown stated that the majority of Council support Coventry Home's proposal for development.

9. Discuss adhering to the City's General Plan regarding residential densities.

Councilmember Jaffa commented concerning the technical nature of zoning matters and the importance of education and training relative to real estate development. Council and staff spoke regarding the City's General Plan, zoning designations, densities, and open space provisions.

Council requested a briefing relative to the General Plan, current growth areas/areas where growth should be encouraged, and existing/future infrastructure. Mayor Brown suggested that a joint meeting be scheduled with various boards and committees.

10. Acknowledge receipt of minutes of various board and committees.

- a. Adjustment Board meeting held September 1, 1998.
- b. Crime Prevention Advisory Board meeting held September 16, 1998.
- c. Economic Development Advisory Board meeting held August 27, 1998.
- d. Industrial Development Authority Board meeting held September 22, 1998.
- e. Parks and Recreation Board meeting held September 15, 1998.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, to acknowledge receipt of the minutes of the above-listed meetings.

Carried unanimously.

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

Councilmember Pomeroy advised that he recently accompanied individuals from Williams Gateway on a trip to market the Airport. Councilmember Pomeroy commended Executive Director Lynn Kusy and Marketing Director Mary Baldwin for their efforts.

Councilmember Kavanaugh said that he and Councilmember Davidson recently attended the 44th Conference of the International Downtown Association. Councilmember Kavanaugh reported that many of the concepts presented (e.g., streetscape) are concepts that Mesa has applied. Councilmember Kavanaugh stated that Mesa will host the mid-winter conference in late February/early March 1999.

12. Scheduling of meetings and general information.

Mr. Luster said that the meeting schedule is as follows:

Monday, October 5, 1998, 5:45 p.m. - Regular Council Meeting (to be preceded by an Executive Session and Study Session)

Thursday, October 8, 1998, 7:30 a.m. - Study Session

Mr. Luster stated that a meeting of the Finance Committee and the Utility Committee will be scheduled in the near future.

13. Prescheduled public opinion appearances (maximum of three speakers for three minutes per speaker).

There were no prescheduled public opinion appearances.

14. Items from citizens present (maximum of three speakers for three minutes per speaker).

There were no items from citizens present at this time.

15. Adjournment.

Without objection, the Study Session adjourned at 9:58 a.m.

WAYNE BROWN, 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 1st day of October 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1998

BARBARA JONES, CITY CLERK