

COUNCIL MINUTES

April 5, 1999

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 April 5, 1999 at 5:00 p.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
Wayne Balmer
Kathy Barrett
Neal Beets
Denise Bleyle
Jamie Brennen
Dennis Compton
Fred Conway
Mark Coon
Linda Crocker
Jack Friedline
Joe Holmwood
Mike Hutchinson
Barbara Jones
Karen Kille
Ron Krosting
Dorinda Larsen
Rich Lorig
Jeff Martin
Keith Nath
Eric Norenberg
Les Olsen
Gilbert Otanez

STAFF PRESENT (CONT.)

Ellen Pence
Bryan Raines
Andrea Rasizer
Tom Remes
Becky Richardson
Regan Robbins
Kathleen Savagian
Sharon Seekins
Jenny Sheppard
Walter Switzer
Mindy White
Paul Wilson
Christine Zielonka

OTHERS PRESENT

Sean Morris
Robbie Sherwood
Ray Stern
Marilynn Wennerstrom
Others

1. Review items on the agenda for the April 5, 1999 Regular Council Meeting.

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

6. Consider the following contracts:

- *i. 210,000 water quality brochures for the Utilities Department as requested by the Printing & Graphics Division.

Councilmember Davidson commended staff on the fact that recent test results on City wells has confirmed the high quality of Mesa's well-water supply.

- q. North Brimhall Street Special Improvement District No. 239. City of Mesa Project No. 98-79.

Councilmember Hawker indicated that he has a potential conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting and because of such conflict, he would refrain from discussing and/or participating in any manner in connection with same.

- r. Falcon Field Airport Pavement Preservative Seal and Slurry Seal. City of Mesa Project No. 99-81.

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8. Consider the following resolutions:

- a. Authorizing the City Manager to execute documents to apply for funding for CDBG/HOME/ESG Projects (Community Development Block Grant, HOME Investment Partnerships Program, Emergency Shelter Grant) for FY 1999-2000.

Community Development Manager Wayne Balmer advised that 1999 marks the 25th anniversary of the Community Development Block Grant (CDBG) funding program and said that the City of Mesa has been involved in the program for the last 24 years. Mr. Balmer briefly highlighted a significant list of CDBG projects that were implemented as a result of the funding and noted that the program has been designed to upgrade the older, low-income areas in central Mesa.

Mayor Brown thanked Mr. Balmer for his input.

In response to a request from Councilmember Davidson, Mayor Brown asked Mr. Balmer to repeat his CDBG presentation at the ensuing Regular Council Meeting for the benefit of Mesa's citizens.

Councilmember Hawker pointed out that the Housing for Mesa organization also has housing available which is subsidized by the City of Mesa. Councilmember Hawker added that certain qualifications must be met in order to be eligible for the housing and encouraged staff to advertise the fact that this subsidized housing opportunity is available.

9. Consider the following ordinance:

- *a. Removing the parking prohibitions (at various locations as recommended by the Transportation Advisory Board.)

In response to concerns expressed by Councilmember Pomeroy regarding the removal of parking prohibitions on the north side of Hermosa Vista Drive, Transportation Director Ron Krosting clarified that the current "No Parking" signs will not be removed until the street has been widened and the entire project has been completed.

12. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances:
 - a. Z98-78 The northwest corner of Brown and Greenfield Roads.

Mr. Balmer informed the Council that the applicant has submitted a letter advising that he has shown a revised plan to the neighbors in opposition and that two of the three neighbors have removed their legal protest and support the project. Mr. Balmer added that the case will still require a $\frac{3}{4}$ vote of the Council due to the fact that one neighbor remains in opposition.

- d. Z99-16 The southeast corner of Power Road and Elliot Road.

In response to a question from Councilmember Davidson, Mr. Balmer advised that this case has been submitted strictly as a concept plan and clarified that the applicant will be required to present a specific plan prior to any type of approval.

- g. Z99-20 The southwest corner of Country Club and Juanita.

Mr. Balmer responded to questions from Councilmember Pomeroy regarding this case and stated that the applicant will address the Council at the ensuing Regular Council Meeting.

2. Discuss and consider the City's position regarding Legislative efforts to preempt our local dust control program.

Assistant to the City Manager Jeff Martin and Environmental Programs Director Christine Zielonka addressed the Council relative to this agenda item.

Mr. Martin discussed efforts that he, Ms. Zielonka and various staff members have expended in recent months to meet with representatives of the construction industry to discuss the City's particulate control ordinance and address concerns that have been expressed. Mr. Martin advised that the representatives are concerned that the City's ordinance will mirror Maricopa County's regulations and will result in confusion and a duplication of effort. Mr. Martin added that the representatives have also expressed concern regarding potential inconsistencies between the City of Mesa's ordinance and the County's Rule 310 on particulate pollution control.

Mr. Martin informed the Council that discussions have reached an impasse and stated the opinion that the construction industry wants the City of Mesa to suspend the ordinance until the end of the calendar year. Mr. Martin said that the City wants the ability to implement the program and maintain enforcement authority. Mr. Martin expressed the opinion that the lack of enforcement capability will result in violations and will negate the effectiveness of the ordinance.

Mr. Martin noted that the City's particulate program has been in effect for approximately nine months and no violations have been issues to date. Mr. Martin commended Ms. Zielonka and staff for their efforts to assist industry representatives in addressing dust problems that have occurred at the various sites.

Ms. Zielonka presented the Council with brief background information on the formation of the particulate control ordinance and stated that although Maricopa County's Rule 310 on particulate pollution control was in place, both on-site inspections and regulation enforcement was minimal. Ms. Zielonka noted that in an effort to avoid confusion, extensive effort was expended over a period of one year, to draft an ordinance that was consistent with Rule 310. Ms. Zielonka emphasized that the ordinance does not contain additional

requirements and said that the goal of the ordinance is to work in cooperation with the construction industry in addressing environmental pollution concerns.

Ms. Zielonka informed the Council that shortly after the implementation of the ordinance, a representative of the home building industry contacted Ms. Zielonka and expressed strong opposition to the City's particulate control ordinance. Ms. Zielonka said that the representative stated the opinion that the ordinance duplicates Maricopa County's Rule 310 and should be eliminated.

Discussion ensued relative to the fact that staff has met a total of five times with representatives of the industry and despite numerous requests for input relative to perceived inconsistencies and concerns, no information has been forthcoming and the meetings remain unproductive, the fact that the industry is adamantly opposed to allowing the City of Mesa to have enforcement capability regarding the particulate control ordinance, and the fact that the Maricopa Association of Governments (MAG) has notified Ms. Zielonka that the industry is attempting to get legislation adopted that would preempt the City's ability to control nuisances and pollution abatement.

In response to a question from Mayor Brown, Mr. Martin stated the opinion that the industry may have the ability to get preemption legislation passed and emphasized that this action would negatively and severely impact the City of Mesa. Mr. Martin added the opinion that efforts to work together to resolve concerns regarding the City's ordinance should continue. Mr. Martin also commented on the importance of assuming a strong position in opposition to legislation that will preempt the City of Mesa.

Councilmember Kavanaugh stated that recent City efforts to adopt ordinances and/or regulations to protect the health, safety and welfare of Mesa's residents have been increasingly met with resistance by those who are unwilling to abide by these laws and spoke in strong opposition to efforts to block the City's implementation of these measures by pursuing preemptive legislation. Councilmember Kavanaugh expressed the opinion that the issue of particulate control was never adequately addressed by the County and said that the City's efforts are appropriate. Councilmember Kavanaugh reaffirmed his support of the program and said that the City should strongly oppose any attempts to get preemptive legislation passed.

Councilmember Hawker commented on the fact that this issue is a regional one and that the County has not hired a sufficient number of inspectors to enforce Rule 310. Councilmember Hawker questioned whether the City could duplicate County Rule 310 and enforce same from local statutes by utilizing City personnel.

City Attorney Neal Beets advised that efforts on behalf of the City to duplicate the County's rule and utilize City staff to enforce the regulations have been met with strong resistance from the representatives of the home building industry. Mr. Beets also informed the Council that the City has offered to integrate its program with the County's to ensure that duplication does not occur and to simplify the process as much as possible.

Councilmember Hawker concurred with Councilmember Kavanaugh's remarks relative to proceeding with efforts to duplicate the County's rule and utilize City staff to enforce the regulations when necessary. Councilmember Hawker also cautioned staff to avoid adopting standards that differ from those in surrounding cities and stressed the importance of consistency and continuity.

Vice Mayor Giles commented that the City of Mesa is the only entity at this time that is willing to enforce the particulate regulations, spoke in support of the program, and stated his opposition to the passage of any preemptive legislation.

Councilmember Davidson noted that although the home building industry repeatedly expresses opposition to the implementation and enforcement of the City's ordinance based on discrepancies that exist between the ordinance and County Rule 310, to date no discrepancies have been identified.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the Council reaffirm the City's commitment to the dust control program and that the State Legislature be requested to oppose any legislation that would limit the City of Mesa's ability in this area.

Carried unanimously.

Ms. Zielonka commented that contractors in the field have been extremely cooperative regarding particulate control measures and said that the home building industry is the driving force behind the preemption legislation.

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

- a. Downtown Development Committee meeting held March 18, 1999.
- b. Economic Development Advisory Board meeting held March 25, 1999.
- c. General Development Committee meeting held March 1, 1999.

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

Carried unanimously.

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

Councilmember Davidson provided the Council with a brief update on his recent attendance at a Mayor's Forum, sponsored by the League of Women Voters, which was held at Arizona State University. Councilmember Davidson stated that the Forum dealt with planning, growth and economic development issues among the various cities.

5. Scheduling of meetings and general information.

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

Thursday, April 8, 1999, 7:30 a.m. – Council Study Session

Thursday, April 8, 1999 – Police Committee Meeting immediately following the Study Session

Tuesday, April 13, 1999, 3:30 p.m. – General Development Committee Meeting

Wednesday, April 14, 1999, 7:30 a.m. – Fire Committee Meeting

Thursday, April 15, 1999, 7:30 a.m. – Council Study Session

Monday, April 19, 1999 – Utility Committee Meeting (preceding the Regular Council Meeting)

Monday, April 19, 1999, 5:45 p.m. – Regular Council Meeting

Wednesday, April 21, 1999, 3:30 p.m. - General Development Committee Meeting

Tuesday, May 4, 1999, 3:30 p.m. - General Development Committee Meeting

Thursday, May 13, 1999, 3:30 p.m. - General Development Committee Meeting

Friday, May 28, 1999, 3:30 p.m. - General Development Committee Meeting

6. Prescheduled public opinion appearances.

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

7. Adjournment.

Without objection, the Study Session adjourned at 5:40 p.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 5th day of April 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK