

COUNCIL MINUTES

November 10, 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 November 10, 2004 at 7:35 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. Review items on the agenda for the November 15, 2004 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflicts of interest declared: 5i (Hawker)

Items removed from the consent agenda: 7c, 7j, 7k, 9, 10

Items added to the consent agenda: None

2. Hear an update, discuss and consider the City's property and liability insurance policies.

City Attorney Debbie Spinner introduced Deputy City Attorney Mark Ishikawa, who is responsible for the Litigation and Risk Management Unit, and Risk Manager Randy Fleischhauer.

Ms. Spinner reviewed the recommendation for the City's property and liability insurance coverage as outlined in the Council Report (see Attachment 1). She noted that the cost of coverage increased significantly following 9-11.

Discussion ensued relative to the fact that the recommendation would maintain the City's liability coverage at \$25,000,000 excess of the \$3 million self-insured retention (S.I.R.) level; that changing to a \$2 million self-insured level would cost the City an additional \$200,000 a year; and that the City would break even in the event that one claim in the amount of \$5 million was paid during the next five years.

Mayor Hawker indicated that he preferred to spend the additional \$200,000 per year and reduce the self-insured level to \$2 million.

Councilmember Griswold concurred with Mayor Hawker that the self-insured level should be \$2 million.

Ms. Spinner advised that five individuals filing claims as a result of the same incident would be considered as one claim.

Further discussion ensued relative to the fact that the City has had only one claim in the past five to ten years that utilized the excess carrier; that a liability claim is often not paid for three or four years due to continuing litigation; that a \$2 million self-insured level would reduce the required liability fund balance; and that the Council established a goal that the liability fund is to be self-sustaining.

In response to a question from Mayor Hawker regarding the premium for self-insuring at the \$1 million level, Ms. Spinner advised that staff would provide additional information, and she noted that the item would be placed on the November 15th Regular Council Meeting agenda.

Ms. Spinner confirmed that the correct value of City property referred to on page 2 of the Council Report should be \$432,500,000 rather than \$432,500.

Responding to a question from Councilmember Rawles, Ms. Spinner advised that aircraft and airport liability policies would be considered for renewal in June.

Mayor Hawker thanked staff for the presentation.

3. Hear an update on transit service cost avoidance and the application of Title VI (Civil Rights Act) to transit.

Transit Operations Administrator Jim Wright advised that this update is in response to questions raised by the Council in regard to Transit Service Agreements. He introduced Al Villaverde, Deputy Transit Director for the City of Phoenix, who has responsibility for enforcement of Title VI and Environmental Justice. He noted that as the designated Federal grant recipient for the Region, the City of Phoenix is responsible for ensuring compliance with Federal Transit requirements. Mr. Wright also introduced Dr. John Cleveland, Civil Rights Manager for the Phoenix Public Transit Department.

Mr. Villaverde reported that the City of Phoenix annually receives \$30 to \$100 million in Federal Transit Administration grants, which are then distributed to 14 sub-recipients in Maricopa County. He noted that the City of Mesa is one of the largest sub-recipients, and that each sub-recipient must comply with 23 primary areas. He noted that one of the key areas is civil rights compliance, which includes the Americans with Disabilities Act (ADA), the Civil Rights Act (Title VI) and Environmental Justice.

Dr. Cleveland noted that the Councilmembers were given copies of a brochure titled, "An Overview of Transportation and Environmental Justice" (a copy is available for review in the City Clerk's Office), that outlines the provisions of Title VI and Environmental Justice. He provided an overview of the provisions that are designed to protect certain classes of minority groups and low-income individuals.

Dr. Cleveland referred to the brochure, which lists the following as the three most important principles of Environmental Justice:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

In response to a question from Councilmember Rawles regarding the effect of the City discontinuing all transit service, Dr. Cleveland advised that the action would not be a violation of Title VI because the City would be treating all segments of the population in the same manner. He added that the possibility exists on a regional basis that citizens of Mesa could claim discrimination because Tempe continues to provide transit services to their citizens.

Responding to questions from Mayor Hawker regarding the possible elimination of certain routes, Dr. Cleveland noted that the minority and low-income populations in the service area would be analyzed and compared to county averages. He explained that a disproportionately high impact in the provision of benefits would be flagged as a potential violation. Dr. Cleveland added that increased service levels for a higher-income area while a minority, low-income area remains at the status quo could be perceived as a denial of benefits. He noted that ridership figures could be considered as a factor in providing service, but it could not be the only factor considered.

Vice Mayor Walters commented that the City of Mesa is growing, and that future transit service could be implemented in areas where none presently exists. She asked if implementing service in a new area that is similar to the service that presently exists in a low-income or minority area creates an environmental justice problem.

Dr. Cleveland advised that consideration should be given to the needs of the population. He noted that a part of the City receiving more benefits than an area populated by minorities and low-income populations could pose a legal problem.

Councilmember Rawles stated the opinion that the concept of a "negative liberty" is espoused in the equal protection clause of the Civil Rights Act. He requested that staff review all Federally-funded City programs prior to the budget process to ensure that programs are handled properly.

Mr. Wright referred to the chart, "Title VI Review of Mesa Bus Routes" (see Attachment 2), which indicates that 33.8 percent of the County's population consists of minorities and that 11.6 percent of the population has an income below the poverty level. He identified the City of Mesa routes that serve a population with percentages above the County levels.

Mayor Hawker thanked Dr. Cleveland and Mr. Villaverde for the presentation.

Assistant Development Services Manager Jeff Martin stated that staff would like to address the comparison included in the Council packet titled, "City of Mesa – Estimated Transit Program Cost Avoidance for FY05/06" (see Attachment 3).

Transportation Planning Administrator Kevin Wallace advised that the "net costs per revenue mile" are difficult to determine due to the differences in operating contracts in the Valley. He explained that the higher costs for Phoenix reflect higher wages.

Mr. Martin noted that consolidating services has enabled Mesa to reduce costs.

Responding to questions from Mayor Hawker regarding the amount of General Fund dollars directed to transit service, Mr. Martin advised that an estimate of \$4 million was fairly accurate. He said that he would investigate and provide additional information to the Council. Mr. Martin noted that the requirements under State Law for participation in the Regional Public Transit Authority (RPTA) would be reviewed at meeting of participants scheduled later in the month.

Mr. Wallace referred to the graphic titled, "Estimated Cost Avoidance for FY05/06" (see Attachment 3). He noted that the regionalized approach to transportation would save the City of Mesa approximately \$1.6 million in fiscal year 2005/06.

In response to a question from Mayor Hawker, Mr. Martin confirmed that the City would receive approximately \$9 million as a result of regionalizing the Greenfield Transit Center. He advised that \$7.5 million would be paid back to the City by RPTA over a three-year period beginning in January of 2007. He added that the City would also receive \$1 million for reimbursement of opportunity costs as well as \$500,000 in interest on the outstanding balance of \$7.5 million.

Mr. Martin reported that the City of Mesa is eligible to receive additional Lottery Transportation Assistance Funds (LTAF) in the amount of \$1,041,214. He noted that item number 10 on the November 15th Regular Council Meeting agenda addresses the Bus Stop Master Plan, which includes a recommendation to fund additional bus pullouts and shelters. Mr. Martin advised that staff is recommending that \$310,000 of the LTAF funds, which requires local matching funds for a total of \$600,000, be utilized to address these expenditures. He stated that staff wanted to inform the Council that the grant application must be filed by Friday, November 12, and that the application could be amended if the Council decides to make changes.

Mayor Hawker expressed support for the proposal, and he thanked staff for the presentation.

4. Acknowledge receipt of minutes of boards and committees.

- a. Board of Adjustment meeting held October 12, 2004.
- b. Economic Development Advisory Board meeting held October 5, 2004.
- c. Police Committee meeting held October 25, 2004.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

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

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| Mayor Hawker: | Arizona League of Cities and Towns Resolution Committee Meeting |
| Vice Mayor Walters: | Tour of Transportation Management Center Mesa Community Action Network Recognition Event Tour of South Canal Spur Trail Area Public Arts Tour Dedication of an art piece at the Red Mountain Library Tour of Bus Shelters Emerson Elementary School's 50 th Anniversary |
| Councilmember Griswold: | Fly-In at Falcon Field Sister Cities Meeting Jogging Trail Meeting Citrus Neighborhood Meeting |

6. Scheduling of meetings and general information.

Assistant City Manager Debra Dollar stated that the meeting schedule is as follows:

Wednesday, November 10, 2004, 4:00 p.m. – Police Committee

Monday, November 15, 2004, TBA – Study Session

Monday, November 15, 2004, 5:45 p.m. – Regular Council Meeting

Thursday, November 18, 2004, 7:30 a.m. – Study Session

Thursday, November 18, 2004, 9:30 a.m. – Fire Committee

Thursday, December 2, 2004, 7:30 a.m. – Study Session

Monday, December 6, 2004, TBA - Study Session

Monday, December 6, 2004, 5:45 p.m. - Regular Council Meeting

7. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

8. Items from citizens present.

There were no items from citizens present.

9. Adjournment.

Without objection, the Study Session adjourned at 9:18 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 10th day of November 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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Attachments (3)