

## COUNCIL MINUTES

May 8, 2003

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 May 8, 2003 at 7:30 a.m.

### COUNCIL PRESENT

Mayor Keno Hawker  
Rex Griswold  
Kyle Jones  
Dennis Kavanaugh  
Janie Thom  
Claudia Walters  
Mike Whalen

### COUNCIL ABSENT

None

### STAFF PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

1. Discuss and consider the Disposition and Development Agreement between the City of Mesa and 44 West University, LLC (John C. Giles) for the Mitten House.

City Attorney Debbie Spinner provided background regarding the events that took place in relocating both the Mitten House and the Pomeroy House. Ms. Spinner outlined the Request for Proposal (RFP) process which occurred in August of 2002 and commented on the final proposals that were submitted. Ms. Spinner explained that in December 2002 the Council reviewed the proposals and directed staff to enter into a 90-day negotiating period with Mesa Violin Studios for the Pomeroy home and LLC (John Giles) for the Mitten residence. Ms. Spinner indicated that Development Agreements for the Pomeroy and Mitten residences were then presented to Council on April 21<sup>st</sup>, 2003 and that a majority of the Council (6-1) voted for approval of those agreements.

Ms. Spinner stated that subsequent to the April 21<sup>st</sup> meeting, she was requested to respond to a question regarding a possible conflict relating to the proposal for the Mitten House. Ms. Spinner informed those present that although John Giles is a co-chairman of a reelection campaign for Councilmember Walters, Councilmember Walters did not have a conflict of interest based on her review of the statutes. Ms. Spinner pointed out that Councilmember Walters did not have a substantial interest in the contract either directly or indirectly, therefore, the action taken by Councilmember Walters in voting on this matter was appropriate. City Attorney Spinner emphasized the fact the position of co-chairman for an election campaign is not compensatory and Mr. Giles did not expect to be compensated.

Ms. Spinner outlined the provision in the Mesa City Code relating to the procedures involved with reconsideration of issues. City Attorney Spinner pointed out that subsequent to the action taken by the Council regarding this issue (a contract) a motion for reconsideration would have to have taken place within two weeks of action. Ms. Spinner reiterated the fact that it was appropriate for Councilmember

Walters to vote on the Disposition and Development Agreement involving the Mitten House and Mr. Giles.

Vice Mayor Kavanaugh spoke of the many relationships (friends and acquaintances) developed by a Councilmember throughout their capacity as an elected official and commented on the complexities involved in determining the level of conflict at the time those parties conduct any business before the Council.

2. Discuss issues associated with conflict of interest statutes and election campaign committee members and consider referring the matter to staff for further research.

Mayor Hawker suggested that information be added to the City's *Ethics Handbook* to provide direction for future Councilmembers. He noted that the discussion on the previous agenda item indicates areas to be clarified, and he requested that City Attorney Debbie Spinner provide a written legal opinion. Mayor Hawker recommended that staff investigate how other municipalities handle the issue of declaration of conflicts of interest and that staff provide the appropriate language for review and consideration by the Council to address the concerns expressed by the Council regarding conflicts of interest and ethical issues relative to an election campaign. He requested a motion to provide direction to staff and noted that the public would have an opportunity to comment when the item was presented to the Council.

Discussion ensued relative to the fact that staff requested the input and participation of Vice Mayor Kavanaugh in this effort based on his extensive experience with the issue and familiarity with past discussions on the subject; that the State Statutes define negligence as "did you know or should you have known;" that officials can be held personally liable for violations of the State Statute; that ambiguity exists in terms of the timeframe or dollar amount that would trigger the declaration of a conflict of interest; that the names of principals and/or partners of businesses or organizations may not be specifically identified in items that are considered by the Council; and that Councilmembers make every effort to declare potential conflicts of interest, but the volume of paper makes the effort onerous.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Thom, that staff be directed to prepare recommendations for consideration by the Council that will update the City's Ethics Code to comply with recent changes to the State Statutes, and staff is also to provide references to other City policies or procedures that may be affected by any change to the State Statutes.

Carried unanimously.

3. Adjournment.

Without objection, the Special Council meeting adjourned at 7:48 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 Study Session of the City Council of Mesa, Arizona, held on the 8<sup>th</sup> day of May 2003. 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