

COUNCIL MINUTES

July 9, 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 July 9, 1998 at 7:38 a.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

Pat Pomeroy

STAFF PRESENT

C.K. Luster
Tom Albright
Pauline Backer
Wayne Balmer
Cindy Barris
Neal Beets
Denise Bleyle
Dan Brewer
Dorothy Chimel
Cory Gherkins
Joe Holmwood
Mike Hutchinson
Barbara Jones
Harry Kent
Wayne Korinek
Ron Krosting
Dorinda Larsen
Greg Marek
Jeff Martin
Frank Mizner
Keith Nath
Ellen Pence
David Plumb
Bryan Raines

STAFF PRESENT (CONT.)

Andrea Rasizer
Tom Remes
Becky Richardson
Jenny Sheppard
Ursula Strephans
Walter Switzer
Doug Tessendorf
Mike Whalen
Mindy White
Paul Wilson
Jim Wright

OTHERS PRESENT

Peter Collins
Joanie Flatt
Victor Linoff
Scott Rhodes
Malcolm Ross
Robbie Sherwood
Al Williams
Chris Zaharis
Others

Mayor Brown excused Councilmember Pomeroy from the meeting.

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

1. Discuss and consider a letter of concern regarding Judge Robin Allen.

Scott Rhodes, representing Jennings, Strouss & Salmon, P.L.C., Two North Central Avenue, Phoenix, advised that he was recently retained by the City of Mesa to attempt to reach an agreement with City Magistrate Robin Allen concerning a letter to be placed in Judge Allen's employment file pursuant to a motion made by then-Vice Mayor Pat Gilbert and adopted by Council on May 21, 1998. Mr. Rhodes stated that the matter relates to Judge Allen's conduct in the preparation of a letter signed by Debbie Parsons, an employee of the City Court, and subsequently published in the *Mesa Tribune*. Mr. Rhodes indicated that he has engaged in negotiations and obtained agreement to a letter (copy provided to Council) substantially similar to a letter

drafted by City Attorney Neal Beets in the form of an expression of concern by the Mayor about Judge Allen's conduct.

Mr. Rhodes reported that Judge Allen previously submitted an "open letter" dated March 21, 1998 apologizing for his conduct and that the letter presently proposed for Judge Allen's file reflects both a letter of concern (not formal censure) by the Mayor and Judge Allen's "open letter." Mr. Rhodes recommended that Council accept the letter of concern, subject to receipt within 24 hours of a letter of confirmation and the signed "open letter."

Councilmember Jaffa commented that it is important that City Magistrates demonstrate impartiality and a high level of integrity. Councilmember Jaffa expressed hope that situations similar to that concerning Judge Allen can be avoided in the future.

Councilmember Hawker stated the opinion that the expression of concern by the Mayor and the letter of apology from Judge Allen are appropriate for placement in Judge Allen's employment file and comply with the intent of former Vice Mayor Pat Gilbert's motion of May 21, 1998.

It was moved by Vice Mayor Giles that based on Council's understanding that Judge Allen agrees to have the letter of concern presented to Council placed in his employment file, Council accept the letter of concern as drafted. Vice Mayor Giles emphasized that the letter of concern contains a statement in the first paragraph that a copy of Judge Allen's "open letter" will also be placed in Judge Allen's employment file. Vice Mayor Giles clarified that the letter of concern actually consists of two letters: the letter to be signed by the Mayor and the "open letter" by Judge Allen, both of which will be placed in Judge Allen's employment file. Vice Mayor Giles further moved that the motion made by then-Vice Mayor Pat Gilbert on May 21, 1998 be amended to state that a letter of "concern" and not a letter of "censure" be placed in Judge Allen's employment file. Vice Mayor Giles stated that his motion is contingent on the following condition: A signed original of Judge Allen's May 21, 1998 "open letter" must be received in the Mayor's office during regular business hours on Friday, July 10, 1998. Vice Mayor Giles said that his intention is that the Mayor will not sign the letter of concern unless he receives a signed original of the May 21, 1998 "open letter" before the close of business on July 10.

Councilmember Hawker seconded the motion.

Upon a tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Hawker-Jaffa-Kavanaugh
NAYS - None
ABSENT - Pomeroy

Mayor Brown declared the motion carried unanimously by those present.

2. Discuss and consider development plans for the Mesa Verde Sports Club and Resort Project - Site 17 (Case No. DR98-005TC).

Redevelopment Director Greg Marek advised that a copy of the development plans for the Mesa Verde Sports Club and Resort Project have been prepared for Council review. Mr. Marek stated that the Downtown Development Committee and staff recommend approval of the development plans, subject to 11 stipulations. Mr. Marek provided an overview of the project.

Mr. Marek commented that staff would prefer to have the building located closer to the Sheraton Hotel but that the location is constrained due to existing physical improvements. Mr. Marek noted that more than 1,200 off-street ground-level parking spaces are proposed, which staff believes will be adequate, with the exception of the multi-purpose arena. Mr. Marek indicated that parking spaces for the arena are available in nearby City parking lots and garages and in off-street private parking lots, which will encourage individuals to walk and patronize downtown businesses. Mr. Marek reported that bicycle racks will be provided and that ILR anticipates arranging shuttle service. Mr. Marek added that access will be incorporated in the event a future parking garage is constructed to the west of the project.

Mr. Marek described the proposed landscaping, much of which exceeds City requirements, and building elevations.

Council and staff spoke concerning the project boundaries, property acquisition/condemnation, financing proposal (anticipated within approximately 90 days), and parking availability. Councilmembers noted the importance of pedestrian traffic but expressed concern that parking may be inadequate relative to arena events and may be adverse given various weather/temperature conditions.

Mr. Marek and Malcolm Ross, President of Interactive Leisure Resources (ILR), commented that events at the arena will occur during off-peak hours and expressed the opinion that available off-site parking is presently sufficient. Mr. Marek and Mr. Ross noted that a comprehensive study is currently underway concerning parking within the downtown area and that provisions for additional parking spaces may be necessary in the future.

Additional brief discussion ensued concerning ILR's agreement to include an ice rink rather than a field house as originally proposed in the Memorandum of Understanding, the possibility of approving the design plans with the stipulation that parking be reassessed, and ILR's intent to work with the City to ensure an efficient and effective use of the site.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, to approve the development plans for the Mesa Verde Sports Club and Resort Project as recommended by staff, with the provision that the parking study continue for this proposal and additional projects within the downtown area.

In response to a question from Councilmember Hawker, Mr. Marek indicated that a parking garage to the west of the project would not necessarily require construction by the City.

Upon a tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Hawker-Jaffa-Kavanaugh
NAYS - None
ABSENT - Pomeroy

Mayor Brown declared the motion carried unanimously by those present.

3. Hear and discuss a final legislative update from the recently adjourned State Legislature.

Assistant to the City Manager Jeff Martin reported that a summary of various bills adopted by the Legislature has been provided to Council. Mr. Martin presented an overview of the Regular and Special Sessions, noting that cities defeated most attempts at preemption, with the exception of income tax reductions, estimated to reduce Mesa's growth of state-shared revenues in FY2000-2001 by \$627,000 and approximately \$1 million each year thereafter.

Councilmember Davidson suggested that input be obtained from economic development personnel concerning the trend pertaining to shared revenues.

Council commended Mr. Martin, particularly in relation to HB2663 concerning electric deregulation, and expressed appreciation to the League of Arizona Cities and Towns for their efforts.

4. Review and consider a policy regarding reading the agenda at Council meetings.

Councilmember Hawker requested that consideration be given to amending the practice that Councilmembers read the consent agenda on a rotating basis at Regular Council Meetings. Councilmember Hawker expressed the opinion that reading of the consent agenda by another individual or individuals would allow Councilmembers greater opportunity to focus on issues included on the agenda.

In response to a question from Councilmember Kavanaugh, City Attorney Neal Beets stated that reading of the consent agenda is not a requirement by City Charter or Code but encouraged continuation for the benefit of the audience.

Councilmember Kavanaugh suggested enhancement of the process by additionally scrolling the agenda on Channel 11 prior to Council meetings.

Vice Mayor Giles noted the importance of agenda items to the citizenry, particularly given funding associated with various projects, and spoke in favor of Councilmembers or other individuals continuing to read the consent agenda.

Mayor Brown and Councilmember Jaffa indicated a willingness to allow another individual or individuals to read the consent agenda to facilitate Council's focus on agenda items. Mayor Brown requested that City Manager Charles Luster select an individual or individuals to read the consent agenda.

5. Discuss and consider a 2025 Vision Plan for Mesa.

Mayor Brown advised that the Maricopa Association of Governments (MAG) is in the process of developing a Year 2025 Vision Plan and has recommended that cities additionally consider individual plans for their communities.

Councilmember Hawker distributed/reviewed a list of potential topics and major time lines for consideration in developing a vision plan for Mesa for the year 2025. Councilmember Hawker noted studies completed in previous years relating to various components but commented that to his knowledge, such studies have not been incorporated into a singular plan. Councilmember Hawker spoke concerning the importance of long-range planning, particularly in conjunction with decisions presently made for the community.

Mayor Brown expressed appreciation to Councilmember Hawker for his efforts relative to this item.

Discussion ensued pertaining to committee involvement. Vice Mayor Giles and Assistant City Manager Mike Hutchinson suggested input from the recently appointed Local Planning Collaborative.

Planning Director Frank Mizner spoke concerning activities to date of the Local Planning Collaborative and expressed the opinion that the emphasis by MAG on local planning will increase in future months. Mr. Mizner extended an invitation to Councilmember Hawker to attend the next meeting of the Local Planning Collaborative, which is to be held in August.

Mayor Brown said that he has requested that Councilmember Hawker be added as a MAG representative at the regional level. Mayor Brown suggested that Councilmember Hawker and the Local Planning Collaborative work together in relation to the 2025 Vision Plan.

6. Discuss and consider appointing a Transportation Committee.

Vice Mayor Giles advised that former Councilmember Claudia Walters had expressed an interest in a citizens' advisory Transportation Committee and that he, Ms. Walters, and subsequently Councilmember Davidson met recently with staff to begin drafting an ordinance.

Councilmember Hawker spoke in favor of establishing a Transportation Committee, noting a lack of emphasis on mass transit. Councilmember Hawker encouraged citizen input/participation and increased efforts to educate and disseminate information.

Councilmember Davidson suggested that input be obtained relative to the draft language.

Councilmember Kavanaugh stated support for an expanded citizens' Transportation Committee.

Vice Mayor Giles recommended that the draft language be distributed and this issue be scheduled for discussion at the next Policy Session. Vice Mayor Giles indicated that the current proposal will expand the scope of the existing Traffic Safety Board rather than establish a new committee.

Mayor Brown expressed appreciation for Council's work and encouraged coordination of efforts.

7. Discuss and consider a request to establish a local historic landmark overlay district for Irving School located at 155 North Center.

Redevelopment Director Greg Marek stated that in response to Council's recent request, additional information has been provided relating to local historic designation with regard to the Irving School. Mr. Marek advised that it is staff's recommendation that Council consider this background material and direct staff to place Case No. HP98-001TC on the agenda for the next available City Council meeting. Mr. Marek noted that this case represents the first historic *landmark* designation within the City and stated that approval of the overlay district does not obligate the City to expend funds relative to the property.

Victor Linoff, Chairman of the Historic Preservation Committee, commended staff for their efforts in responding to questions posed by Council at the June 11, 1998 Study Session.

Councilmember Jaffa stated appreciation to staff for the information but expressed concern that a comprehensive historical plan for the area as well as the remainder of downtown Mesa has not yet been established. Councilmember Jaffa questioned the overall financial commitment in rehabilitating properties.

Councilmember Davidson commented that the overlay district does not limit the use of the property and that rehabilitated buildings allow for adaptive reuse. Councilmember Davidson spoke in favor of the proposal.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Davidson, that the recommendation of staff be approved and that Case No. HP98-001TC be placed on the agenda for the next available City Council meeting.

Councilmember Jaffa clarified that he is not recommending that the building be demolished but questioned the appropriateness of Council action at this time. Councilmember Jaffa reiterated his concern that an overall plan is not yet available that merits an overlay district.

Upon a tabulation of votes, it showed:

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

Mayor Brown declared the motion carried by majority vote of those present.

(At 9:06 a.m., Mayor Brown excused Councilmember Davidson for the remainder of the meeting.)

8. Discuss and consider the design standard for bus passenger waiting shelters.

Councilmember Jaffa spoke regarding the new design standard for bus passenger waiting shelters and recommended installation of additional low-water-consumption landscaping (trees) where feasible.

Mayor Brown concurred with Councilmember Jaffa, commenting that such a feature may serve to enhance utilization of mass transit.

9. Review and consider policies and programs regarding mass transit, including bus pull-outs, bicycle lanes, and park-and-ride lots.

Councilmember Jaffa recommended that provisions relating to bus pull-outs, bicycle lanes, and park-and-ride lots be considered when developing/redeveloping property throughout the City.

10. Discuss and consider further review of the General Plan.

Mayor Brown stated that he has requested a presentation to Council regarding the Governor's "growing smarter" legislation and the relationship to the City's General Plan.

In response to a question from Vice Mayor Giles, Assistant to the City Manager Jeff Martin advised that a component of the "growing smarter" act is a ballot proposition to fund money from existing state revenues to conserve open space.

Councilmember Jaffa noted the importance of zoning issues to the City and indicated a willingness to attend meetings of the Planning and Zoning Board to provide additional feedback to Council.

11. Further discussion and consideration concerning the use of Salt River Project canal banks.

Assistant City Manager Mike Hutchinson advised that the City has negotiated an agreement with Salt River Project (SRP) for the use of canal banks with the provision that the City assumes liability.

Community Services Manager Wayne Korinek distributed a diagram illustrating the proposed elevation for the first phase of the intermodal transportation canal pathway, beginning at Center and ending at 8th Street. Mr. Korinek said that approximately \$900,000 is available in the current budget for the two-mile segment as a component of the recently approved sales tax adjustment. Mr. Korinek outlined the anticipated time frame for the project, stating that actual construction is anticipated from March through May of 1999. Mr. Korinek

indicated that a concrete pathway, lighting, and rest stations at one-half mile intervals are proposed and that maintenance is projected at \$15,000 per year.

Mr. Korinek reported that \$1.5 million will be available during the third year of the sales tax plan for an additional project but said that the location has yet to be finalized.

Councilmember Hawker commented concerning the importance of the canal banks as an asset to the City. Councilmember Hawker stated support for the proposal, particularly given the density of the area and the proximity to Hohokam Park.

Councilmember Jaffa spoke in favor of enhancing the City's canal system and encouraged SRP funding for aesthetics.

Discussion ensued pertaining to liability issues and provisions for crossing over the canal.

Mayor Brown indicated support for the proposal, noting the importance of the project in demonstrating to citizens a benefit of the recent sales tax adjustment.

12. DMP-PAD issues – Consider tightening rules or adopting policy that makes it more difficult for developers to change development plans that are already substantially in process of being implemented.

Councilmember Jaffa stated that it would not be his intent to render changes impossible but encouraged careful review of applications.

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

- a. Design Review Board meeting held July 1, 1998.
- b. Museum and Cultural Advisory Board meeting held June 25, 1998.

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

Upon tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh
NAYS - None
ABSENT - Davidson-Pomeroy

Mayor Brown declared the motion carried unanimously by those present.

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

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

15. Scheduling of meetings and general information.

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

Thursday, July 16, 1998, 7:30 a.m. – Study Session

Monday, July 20, 1998, 5:45 p.m. – Regular Council Meeting (preceded by a Study Session)

Thursday, July 23, 1998, 8:00 a.m. – Council Retreat at Williams Gateway Airport

Community Development Manager Wayne Balmer presented an update concerning a proposed relocation of the Youth Development Institute (YDI) to three single-family homes owned by the City, located on the south side of Ray Road, east of Power Road. Mr. Balmer outlined a plan to lease the homes to YDI for five years at a cost of \$1 per year, subject to specific conditions, in exchange for agreement from YDI to relocate its facility at 833 West McLellan and the anticipated facility at West Mountain View. Mr. Balmer expressed the opinion that YDI's operation will be compatible with the surrounding neighborhood. Mr. Balmer said that YDI has been requested to provide written responses to a list of questions prepared by staff and that the answers will serve as a basis for the development of lease conditions. Mr. Balmer stated that YDI has indicated agreement to the proposal.

Council commended Mr. Balmer and staff for their efforts and reiterated Council's intent to work with the State Supreme Court and Congress to address the issue of group homes on a national level.

Mr. Balmer advised that staff will meet in the near future with residents from neighborhoods surrounding the recommended relocation site to discuss the proposal.

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

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

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

Mayor Brown stated that there were no items from citizens present at this time.

18. Under the Site 14 Redevelopment Agreement, consider approving the acquisition of Brown & Brown Chevrolet, Inc. by Republic Industries, Inc.

Mayor Brown 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.

Mayor Brown yielded the gavel to Vice Mayor Giles for discussion of this item.

City Attorney Neal Beets advised that the City currently has a redevelopment agreement with Brown & Brown Chevrolet, Inc. involving the construction of a parking garage from which new cars will be displayed and sold. Mr. Beets advised that Brown & Brown is presently being acquired by Republic Industries but will continue as a legal entity, with Henry Brown remaining as President and the management team continuing to operate under Republic as they have under Brown & Brown.

Mr. Beets stated that the redevelopment agreement requires Brown & Brown to seek Council approval for the transfer and stipulates that the City will not unreasonably withhold consent. Mr. Beets said that he has reviewed the documentation pertaining to the transfer and finds no legal justification to prevent the City's approval. Mr. Beets recommended that Council approve the acquisition.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Hawker, that the acquisition of Brown & Brown Chevrolet, Inc. by Republic Industries be approved pursuant to the Site 14 Redevelopment Agreement.

In response to a question from Councilmember Hawker, Mr. Beets expressed the opinion that the goals and objectives that the City attempted to achieve through the redevelopment agreement (e.g., retain a business in downtown that generates substantial sales tax revenue) will remain intact under the proposed acquisition. Mr. Beets reiterated that Brown & Brown will continue as a legal entity with no change in name and stated that Republic Industries has greater financial resources at its disposal.

Councilmember Jaffa reported that he has had the opportunity to review the redevelopment agreement and finds no justification to prevent approval of the acquisition. Councilmember Jaffa indicated support for the motion.

Upon tabulation of votes, it showed:

- AYES - Giles-Hawker-Jaffa-Kavanaugh
- NAYS - None
- ABSTAIN - Brown
- ABSENT - Davidson-Pomeroy

Vice Mayor Giles declared the motion carried unanimously by those present and voting.

19. Adjournment.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Hawker, that the Study/Policy Session adjourn at 9:58 a.m.

Carried unanimously.

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/Policy Session of the City Council of Mesa, Arizona, held on the 9th day of July 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