



COUNCIL MINUTES

August 18, 2005

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 August 18, 2005 at 7:31 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

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

Mayor Hawker excused Councilmembers Jones and Whalen from the beginning of the meeting. Councilmember Jones arrived at 7:33 a.m. and Councilmember Whalen at 7:36 a.m.

Mayor Hawker excused Councilmember Rawles from the remainder of the meeting at 8:25 a.m.

1. Discuss and consider approval of proposed Arizona League of Cities & Towns resolutions.

Assistant to the City Manager Jim Huling advised that he and City Council Assistant Scott Butler were present to provide an overview of the League resolution process and to obtain Council approval of proposed Mesa-sponsored resolutions and resolutions proposed to be co-sponsored by the City of Mesa, as outlined in the Council Report. He stated that the League would consider the resolutions during the Annual Conference on September 20th, and that the League Resolutions Committee would act to formally adopt the resolutions during their October 28, 2005 meeting. Mr. Huling noted that Mayor Hawker serves as the City's representative on the Resolutions Committee.

a. Arizona Highway User Revenue Funds (HURF) Repayment (Resolution #1)

Mr. Huling said that this resolution requests that the State of Arizona repay \$118 million in HURF funds, which were diverted to the State General Fund in 2005, and that the amount of the ongoing diversion of HURF revenues to the Department of Public Safety (DEPS) be reduced. He added that this is a primary area of concern for the Arizona Association of General Contractors and the Greater Phoenix Chamber of Commerce.

Mayor Hawker noted that the unpredictable aspect of the State's HURF allocation makes it difficult for cities and towns to properly address their budget issues.

In answer to a question from Councilmember Thom, Mr. Huling advised that the \$118 million referred to in the resolution were HURF funds that were diverted by the State at the expense of the Arizona Department of Transportation (ADOT).

Discussion ensued relative to the fact that the State Legislature is reluctant to raise the gas tax due to political implications; that the gas tax could be indexed to inflation; that the last change in the gas tax occurred in 1991; that the gas tax could be considered "politically correct" because it is based on use; and that the gasoline tax could be addressed as a separate resolution.

City Attorney Debbie Spinner recommended that the topic of the gasoline tax be agendaized for discussion and consideration at a future meeting.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the City recommend approval of Resolution #1.

Carried unanimously.

b. Municipal Parking Enforcement (Resolution #2)

Mr. Huling explained that the City of Mesa is proposing the resolution in order to enable municipalities to contract with private firms for the enforcement of parking regulations.

In response to comments by Councilmember Thom in opposition to the resolution, Deputy City Attorney Joe Padilla explained that a recent change enacted by the Council extended the timeframe for payment of a parking fine from three days to seven business days. He noted that the intent of the resolution is to allow municipalities to secure the services of a private company to monitor and issue citations. He added that once the citation is issued, the court process remains the same. Mr. Padilla stated the only personnel presently allowed to issue parking citations are sworn police officers.

Discussion ensued relative to the fact that each municipality could determine the enforcement method to be utilized; that it is difficult to retain sworn personnel in parking enforcement positions due to the fact that officers have been trained for more complex duties; and that sworn officers could better utilize their training in more critical areas than parking enforcement.

It was moved by Councilmember Griswold, seconded by Vice Mayor Walters, that the City recommend approval of Resolution #2.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold Jones-Rawles-Walters-Whalen
NAYS – Thom

Mayor Hawker declared the motion carried by majority vote.

c. First Response Vehicles (Resolution #3)

Mr. Butler stated that this proposal addresses the problems experienced by several City Utility Division employees who live in areas where the homeowner association (HOA) rules prohibit the presence of service vehicles and trucks in driveways during the evening hours. He noted that when the employee is designated as a "first responder," he or she is required to have a City service vehicle at their residence in order to ensure a quick response to an emergency situation.

Utilities Manager Dave Plumb advised that Electric Utility "first responder" employees are required to live within eleven miles of downtown in order to ensure a prompt emergency response. He noted that the number of emergency calls vary depending on the weather, and that the location of the emergency determines the response time.

Discussion ensued relative to the fact that legislation presently exists that allows Southwest Gas vehicles to be parked at an employee's place of residence; that "first responders" are designated on a rotation basis; that this issue could be a problem for other utilities; and that the support of other utility providers could promote passage of legislation.

It was moved by Councilmember Rawles, seconded by Councilmember Griswold, that the City recommend approval of Resolution #3.

Carried unanimously.

d. Sex Offender Clustering (Resolution #4)

Mr. Butler advised that Councilmember Griswold proposed this resolution, which mirrors a current State of Iowa statute that was recently upheld by the U.S. Eighth Circuit Court of Appeals. He stated the resolution limits convicted sex offenders from living within 2,000 feet of a school or child-care facility.

Councilmember Griswold stated that citizens have voiced complaints regarding the inappropriate location of residential facilities for sex offenders. He noted that the City cannot legally ban registered sex offenders from residing in the community.

Councilmember Rawles requested that staff provide a grid of Mesa that identifies schools and child-care facilities. He expressed concern that the present wording could result in unintended consequences.

Discussion ensued relative to the fact that a "child-care facility" should be defined; that most cities addressing this issue are utilizing a distance of 1,000 or 2,000 feet; that many offenders are tracked electronically; that proposed regulations in neighboring Valley communities could create a concentration of offenders in one area; that the City must comply with the Fair Housing Act; that the Council is on the record as being opposed to clustering rehabilitation centers; and that the Council would like to review maps that identify the locations of schools, child-care facilities, and areas in which offenders could reside under this proposal.

City Attorney Debbie Spinner advised that the Council could propose modifications today because the resolution is presently under consideration.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that the League urge the State Legislature to adopt a new law restricting sex offenders at a particular level from living within a specified distance, which would be determined at a later date, of primary or secondary schools and childcare facilities.

Vice Mayor Walters advised that the resolution could be modified at a later date, and that the Council's action indicates support for the concept of the resolution.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Thom-Walters-Whalen
NAYS – Rawles

Mayor Hawker declared the motion carried by majority vote.

e. 911 Infrastructure (Resolution #5)

Mr. Huling advised that the 911 Infrastructure Resolution (see Attachment), which was received from the City of Phoenix last night, was distributed to each Councilmember this morning. He explained that the existing surcharge of 37 cents is scheduled to decrease to 28 cents in July of 2006 and then decrease to a permanent level of 20 cents in July 2007. Mr. Huling stated that the resolution proposes to maintain the surcharge at 37 cents in order to fund the ongoing administration, operation and management of the State's 911 emergency telephone system.

Mesa Fire Chief Harry Beck, Chairman of the Maricopa Association of Governments (MAG) 911 Oversight Team, advised that six years ago the Federal Communications Commission (FCC) implemented a requirement that cellular telephone companies provide global positioning system (GPS) capability in order to mirror the landline information systems. He advised that the State Legislature implemented the surcharge in order to address the costs of the enhanced 911 system, and that the City of Tucson and Maricopa County are the only areas of the State that have implemented phases I and II of the enhanced system. Chief Beck advised that the typical surcharge in other states is 70 to 80 cents, and that the primary costs to be addressed include installing the enhanced system statewide and maintaining the geographic database. Chief Beck noted that Arizona experiences increased demand each day as a result of rapid growth. He also advised that 70 percent of 911 calls originate on cellular phones.

Councilmember Thom requested that staff provide information regarding the State's population in 1984 and the State's current population. She also requested information regarding the amount of 911 surcharge funds collected each year. Councilmember Thom expressed the opinion that families with several cellular phones and a landline phone are paying the surcharge several times.

In response to a question from Councilmember Griswold, Chief Beck advised that the funds collected are dedicated to the 911 system only.

It was moved by Councilmember Jones, seconded by Councilmember Griswold, that the City of Mesa join with the City of Phoenix to co-sponsor Resolution #5.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Walters-Whalen
NAYS – Thom
ABSENT – Rawles

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

f. Lifetime Probation for Sex Officers (Resolution #6)

Mr. Butler advised that the City of Phoenix is in the process of drafting a resolution that would remove a judge's power to terminate a sex offender's lifetime probation.

Councilmember Rawles expressed opposition because the resolution eliminates a judge's discretionary power to end lifetime probation for an offender who may have successfully completed therapy and may deserve to have his or her probation terminated. He noted that the proposed resolution does not recognize that therapy can successfully address certain problems.

Vice Mayor Walters expressed concern regarding the proposal, and she stated the opinion that an 18 year old engaging in sexual activity with a 17 year old would be classified as a sex offender, but the offense does not rise to the same level as that of a pedophile.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that the Council not support the resolution at this time because of the extremely broad concept expressed, and that the Council reconsider the resolution when the specific language is provided by the City of Phoenix.

Carried unanimously.

g. Bonding Capacity (Resolution #7)

Mr. Huling noted the League adopted this resolution last year, but the Legislature continued the item until this year. He advised that the intent is to enable the municipalities to place street and public safety bonds under the 20 percent limitation rather than present 6 percent limitation.

It was moved by Mayor Hawker, seconded by Vice Mayor Walters, that the City of Mesa join with the City of Peoria to co-sponsor Resolution #7.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Thom-Walters
NAYS – None
* ABSENT – Rawles-Whalen

Mayor Hawker declared the motion carried unanimously by those present.

* Councilmember Whalen was temporarily excused from the meeting room at the time of the vote.

h. Bid Process (Resolution #8)

Mr. Huling explained that the resolution, proposed by the City of Phoenix, is a proactive measure to clarify conflicting language in the Statutes regarding the State's authorization to allow municipalities to utilize the Construction Manager at Risk (CM at Risk) process.

It was moved by Vice Mayor Walters, seconded by Mayor Hawker, that the City of Mesa join with the City of Phoenix to co-sponsor Resolution #8.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Thom-Walters-Whalen
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present.

i. Code Compliance (Resolution #9)

Mr. Butler advised that this resolution would provide municipalities access to contact information regarding the owners of rental properties by requiring property owners to record the title and disclose all parties in a Limited Liability Company (LLC).

Discussion ensued relative to the fact that posting the owner's name and telephone number on the property seems unnecessary; that staff could work with the City of Phoenix to draft alternative language; that cities should have the ability to identify and contact the owners of rental properties; and that the language should stipulate that only the title to rental property would have to be recorded.

Councilmember Thom expressed concern regarding the fact that a requirement to record titles would be a significant change in State law, and she stated opposition to the resolution.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that the City of Mesa join with the City of Phoenix to co-sponsor Resolution #9 with the direction that the language be modified to eliminate the requirement that the owner's name and telephone number be posted on the property, and that the requirement to record the title apply only to rental property.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Walters-Whalen
NAYS – Thom
ABSENT – Rawles

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

j. Telecommunication Services (Resolution #10)

Mr. Butler explained that the resolution proposed by the City of Phoenix would urge Congress to oppose the "Preserving Innovation in Telecom Act" (H.R. 2726) that would preempt local

governments from offering telecommunications services or cable services in any geographic area in which a private entity is already offering a substantially similar service. He noted that concern exists that the bill would prevent local governments from operating systems related to public safety radios, transportation, and fire and police closed-circuit communications.

Discussion ensued relative to the fact that the resolution should outline the specific areas of concern; that because the City of Phoenix is proposing the resolution, the City of Mesa should not make changes to the text; and that the Council could support a resolution that addressed only the Public Safety aspect.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the City of Mesa express support for only the Public Safety aspect of the resolution.

Upon tabulation of votes, it showed:

AYES –	Hawker-Griswold-Jones-Thom-Walters-Whalen
NAYS –	None
ABSENT –	Rawles

Mayor Hawker declared the motion carried unanimously by those present.

2. Discuss and consider direction on Council priorities for Human Services funding.

Human Services Coordinator Nichole Ayoola stated that Human Services has a direct relationship to public safety because funding addresses areas that would otherwise negatively impact police, fire and paramedic services.

Mayor Hawker suggested that the Council review and comment on the guidelines outlined in the Council Report. He expressed the opinions that long and short-term dependence on public resources should be reduced, and that sustainability of funding sources was more important than securing a diverse number of funding sources. He stated a preference to restrict the City's funding contributions to an amount much lower than 40% of an organization's total budget.

Ms. Ayoola advised that most of the organizations receive an amount that is significantly less than 40% of their total budget.

Mayor Hawker indicated that he would like to transfer the responsibility for human services to non-profit organizations. He expressed the opinion that City-funded programs should have identifiable results. Mayor Hawker described a scenario where the City might fund a rehabilitation center in order to reduce the amount of police time involved in arresting habitual alcoholics. He explained that a diversion program could lead to fewer police calls and result in lower costs to the City.

Vice Mayor Walters said that many "good" programs exist in the community, but the City's efforts should address programs that would be appropriate for funding by local government. She stated that the role of the City is to fund programs that have specific outcomes for the public good.

Ms. Ayoola advised that City staff is requesting that “A Better Community” (ABC) funds be directed to specific programs. She stated that the ABC Program funds were presently mixed in with General Fund dollars and are not being utilized for the purpose for which the fund was established.

Discussion ensued relative to the fact that the Council should determine the priorities and needs of the City of Mesa; that staff was present to receive direction from the Council so that funding programs could be proposed that address the Council’s priorities; that the Plus Program transitioned to the ABC program in 1999; that the ABC fund totaled approximately \$122,000 last year; that an effort to survey customers who contribute to the fund relative to their funding preferences raises issues of confidentiality; that staff and the advisory board would like to operate within the framework of the Council’s priorities regarding funding human services; that a future Study Session should be designated for an in-depth discussion of the issue; and that Human Services Advisory Boardmembers could meet with individual Councilmembers in order to obtain a perspective of their views regarding services and funding.

Vice Mayor Walters clarified that her concern addresses General Fund dollars that are allocated to non-profit organizations rather than the “pass-through” dollars from Federal programs.

Further discussion ensued relative to the fact that staff and the advisory board both attempt to recommend program funding that addresses the issue of community safety; and that the Council appreciates staff’s efforts to bring these issues forward for Council discussion in a timely manner.

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

- a. Design Review Board meeting held August 3, 2005.

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that the above listed minutes be acknowledged.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones-Thom-Walters-Whalen
NAYS – None
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present.

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

Councilmember Griswold: Provost’s meeting at Arizona State University Polytechnic.
ADOT meeting regarding the freeway from Power to McDowell.

Councilmember Whalen: Design Review Board Meeting.
Broadway corridor meeting regarding day laborers.

Mayor Hawker: Meeting with Congressman Jeff Flake regarding the impact of illegal immigration.

Vice Mayor Walters: Mesa United Way event honoring Debra Duvall.
Grand opening of Breadsmith of Mesa.

5. Scheduling of meetings and general information.

City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Thursday, August 25, 2005, 7:30 a.m. – Study Session

Thursday, August 25, 2005, 9:30 a.m. – Police Committee

Monday, August 29, 2005, TBA – Study Session

Monday, August 29, 2005, 5:45 p.m. – Study Session

6. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

7. Items from citizens present.

There were no items from citizens present.

8. Adjournment.

Without objection, the Study Session adjourned at 9:38 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 18th day of August 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

baa

Attachment (1)

john.wayne.gonzales@phoen

To jim.huling@cityofmesa.org, scott.j.butler@cityofmesa.org

08/17/2005 06:13 PM

Subject 911 League Resolution - You can paste it into a Word Document

Urges the Legislature, to continue the current 911 surcharge of 37-cents in order to fund the ongoing administration, operation and management of the state's enhanced 911 emergency telephone systems.

Submitted by: Cities of Phoenix and Mesa (?)

A. Purpose and Effect of Resolution

This resolution urges the State Legislature to address the need for maintaining the funding stream to the state's telecommunications revolving fund. New communication technologies have placed additional burdens on public safety answering points (PSAPs). In order to let 911 operators know important information such as wireless phone callback numbers and wireless user geographical locations when users dial 911, computer networks need to be upgraded.

B. Relevance to Municipal Policy

The original 1984 telecommunications legislation falls short of meeting the needs of today's population and technological advancements. Issues such as Geographic Information Systems, Wireless Technology, Training and Education are in the forefront of today's PSAPs needs. Maintaining current revenues are needed to cover the costs of upgrading our shared communications systems.

C. Importance of Resolution to Your City or Town

The 911 system upgrades are making a positive difference in ensuring that requests for emergency assistance are being responded to in a timely manner. Without legislation, the 911 telecommunication fee will drop to 28-cents which will negatively impact our response time for public safety calls.

D. Fiscal Impact to Cities and Towns

This resolution would have no negative fiscal impact to cities and towns.

E. Fiscal Impact to the State

This resolution would have no negative fiscal impact to the state. It only requests a continuation of a communication fee that is already in existence.

F. Contact Information

Please contact John Wayne Gonzales, Intergovernmental Liaison, City of Phoenix, at 602-534-5271 or john.wayne.gonzales@phoenix for any questions.