



GENERAL & ECONOMIC DEVELOPMENT COMMITTEE MINUTES

February 7, 2008

The General and Economic Development Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on February 7, 2008 at 8:07 a.m.

COMMITTEE PRESENT

Tom Rawles, Chairman
Claudia Walters
Kyle Jones

COMMITTEE ABSENT

None

STAFF PRESENT

Debra Dollar
Donna Bronski

1. Items from citizens present.

There were no items from citizens present.

2. Hear a presentation, discuss and make recommendations on general business licenses issued by the City.

Chairman Rawles stated that he recently became aware of the fact that both the City of Mesa and the State of Arizona issue liquor licenses to businesses in Mesa that sell alcoholic beverages and noted that he did not understand the purpose for the City doing so. He explained that he asked Financial Services Operations Director Jenny Sheppard to provide information to the General & Economic Development Committee relative to his inquiry. Chairman Rawles thanked staff for their efforts to compile extensive background material regarding the general business licenses issued by the City and said he would prefer that today's discussion focus primarily on Mesa's liquor licenses.

Ms. Sheppard provided a brief overview of the special regulatory business licenses issued by the City. Her comments included, but were not limited to, the following: that such licenses are issued to certain businesses in order to verify their compliance with specific regulations not included in the Zoning Code, State Statutes or other regulatory codes or that require additional City resources or enforcement; that the City has issued liquor licenses for approximately 30 years; that per State law, Mesa is required to conduct a review of the license application by various City departments before the sale of alcoholic beverages within a business occurs; that staff provides the Council with background information to assist in their approval or denial of a liquor license application to the State Department of Liquor Licensing and Control; and that in FY 2006/07, the City's liquor licensing fees generated \$549,700 in General Fund revenue.

Committeemember Walters stated that she would assume not only in Mesa, but also other Valley communities that there is a presumption that additional calls for service by Police and Fire personnel would occur at locations where liquor is sold. She expressed support for businesses obtaining liquor licenses and said that she does not believe it is illegal for individuals to consume alcoholic beverages. Committeemember Walters added, however, that in many instances, there are "extra costs that come to the public" as a result of drinking and said she did not object to the City recapturing such costs from establishments that sell alcoholic beverages.

Chairman Rawles inquired whether Mesa would have a legal right to deny a City liquor license to an applicant who has been issued a liquor license by the State.

Assistant City Attorney II Jack Shafer responded that per Section 5-9-3 of the City Code, the sale of liquor in Mesa without a City liquor license is unlawful, resulting in a \$2,500 fine to individuals or a \$20,000 fine to establishments. He explained that if a Mesa business was in good standing with the State but its City liquor license expired, in his opinion, the establishment could not be "shut down" because the Code only provides for the issuance of a citation. Mr. Shafer also stated that presuming there was an ongoing citation, the City Attorney's Office would seek a permanent injunction to forbid the sale of alcoholic beverages at the establishment.

Ms. Sheppard indicated that if an applicant had a renewable license and the City became aware of adverse information regarding the business, the City would provide such information to the State. She stated that the State Liquor Board would call a hearing, at which time Mr. Shafer would present the City's case to the Boardmembers. Ms. Sheppard added that if it were the opinion of the Board that the information provided by the City did not justify a denial and it renewed the applicant's license, it would not be possible for Mesa to deny the City liquor license to the applicant.

Discussion ensued relative to the fact that staff has not conducted a cost analysis regarding their liquor license application review process; that the analysis could be accomplished during the upcoming Schedule of Fees and Charges process; that the City is not required to conduct a review of an applicant during the State's liquor license renewal process; and that the City does not incur any direct costs relative to the \$500 or \$550 annual renewal fees assessed to licensees.

Chairman Rawles requested that staff perform a cost analysis of the liquor license application review process as conducted by various City departments. He stated that he wanted to ensure that the analysis included only those costs specifically associated with staff's review of the liquor license application and not items that would be considered "over and above" such costs (i.e., obtaining a building safety permit, Certificate of Occupancy or Fire inspection).

Assistant City Manager Debbi Dollar clarified that staff is prepared to conduct the cost analysis based on the Committee's discussion. She explained that when the licensing fees were established years ago, she presumed that cost recovery was not necessarily the primary focus as opposed to determining a benchmark in the area. Ms. Dollar added that the fees could be changed per the discretion of the Council.

Chairman Rawles reiterated his previous comments that he is simply trying to understand whether the City liquor license is anything other than a revenue source for Mesa and if the City is achieving any type of regulatory benefit for the citizens of Mesa.

Committeemember Walters commented that representatives from the press are present in the audience and stated that it was important to provide some context with regard to this issue. She explained that in the last few months, she has heard rumors in the community that Mesa is “much tougher” on businesses seeking to obtain liquor licenses; that Mormons “set the rules” in Mesa; and that businesses are not allowed to have liquor licenses in downtown Mesa. Committeemember Walters expressed concern relative to a newspaper article “hitting the press” that would suggest the City is reviewing a particular fee imposed only by Mesa and none of the neighboring communities.

In response to Committeemember Walters’ comments, Ms. Sheppard referenced a document entitled “Special Regulatory Business Licenses – Valleywide Comparisons 1/2008” and highlighted various liquor license fees imposed in the surrounding communities. (See Attachment 1.)

Committeemember Walters expressed support for staff reviewing Mesa’s liquor license fees, including lowering the initial fee and considering options for annual renewal fees that more clearly reflect additional Police calls for service at certain establishments that sell alcoholic beverages.

Chairman Rawles stated that he would prefer a cost recovery analysis of staff’s application review process. He noted that pending completion of such an analysis, he would suggest that the Committee discuss and consider whether it is appropriate for the City to charge liquor establishments a premium for doing business in Mesa because they generate additional work for public safety and Code Compliance personnel. Chairman Rawles added that in his opinion, if the City imposes a fee that has no relationship to staff’s associated costs, such action does not foster a business-friendly environment in Mesa.

Committeemember Jones concurred with his fellow Committeemembers that staff should conduct an evaluation of their liquor license application review process. He noted, however, that he would prefer that the analysis be based on a cost comparison with neighboring communities as opposed to cost recovery.

Committeemember Walters inquired under what circumstances Mesa would have the ability to revoke a business’s City liquor license if it was determined that the entity was not in compliance with State law.

Mr. Shaffer responded that if the perceived violation was also a violation of State law, the City would file a complaint with the State Liquor Board and request a hearing. He stated that in his opinion, he did not believe Mesa could revoke an establishment’s City liquor license simply upon information that would be a violation of State law. Mr. Shafer further indicated that if the Police responded to calls at the business, they would issue citations for specific Code violations, but not to revoke the City liquor license.

Business License and Revenue Collections Administrator Tim Meyer reported that in concurrence with City Code violations, Title 4 violations must also be reported to the State. He noted that he was under the impression that the hearing process for all City licensing was the same, but has learned, as a result of Mr. Shafer’s comments, that the process is different for establishments that sell liquor.

Mr. Shafer advised that if the City engaged in enforcement action specifically against its own license, then it should establish its own hearing process. He added that if the City does not enforce its own license, then perhaps such action should be addressed by the State.

Committeemember Walters stated that in light of today's discussion, it might be appropriate to change its sale of alcoholic beverages ordinance in order to achieve "a symmetrical process" as alluded to by Mr. Shafer.

Mr. Shafer said he did not believe there was complete State preemption in this regard. He explained that all municipalities have language within their Codes reflecting that operating an establishment without a liquor license is unlawful, presumably for health and safety reasons. Mr. Shafer commented that the City has not determined under what other circumstances it would be unlawful, as well as under what circumstances the City could revoke or suspend such a license, thereby enabling an appeal process.

Committeemember Walters requested that staff research possible changes to the City's ordinance as outlined by Mr. Shafer prior to the next General & Economic Development Committee meeting.

Chairman Rawles referred to a document entitled "Regulating the Sale of Alcoholic Beverages License." (See Attachment 2.) He pointed out that the issue alluded to by Committeemember Walters regarding the recovery of indirect public safety costs was not set forth in the document by staff as part of their presentation. Chairman Rawles remarked that he is troubled by the direction of today's discussion and commented that he is not interested in pursuing the drafting of an amended ordinance related to the City liquor license, although he would not prevent the process from moving forward.

Chairman Rawles stated, after additional discussion, that there was consensus of the Committee regarding the following items: 1.) That staff be directed to perform a cost analysis of their liquor license application review process; and 2.) That staff bring back examples of liquor license ordinances drafted by other communities.

Ms. Sheppard reported that two years ago, staff implemented changes to the Municipal Code based on City Attorney Debbie Spinner's interpretation that the City could be less but not more restrictive in the Municipal Code than in the State Code.

Committeemember Walters stated that in follow-up to her previous comments regarding Mesa being "much tougher" on businesses applying for liquor licenses in the downtown area, she explained that State law does not recognize that the town center is a unique location with a diverse mixture of charter schools, churches, businesses and the Mesa Arts Center located in close proximity to one another.

Chairman Rawles stated that there was consensus of the Committee that at the March 27, 2008 meeting of the Audit & Finance Committee (of which he and Committeemember Walters are members), that staff be directed to make their annual presentation regarding the Schedule of Fees and Charges and that Committeemember Jones be provided a copy of the associated backup material.

Further discussion ensued relative to additional regulatory business licenses including Teenage Dance Halls and Fortune Telling; and that staff was directed to provide the Committee a cost-recovery analysis regarding the Fortune Telling licensing fees.

Chairman Rawles thanked everyone for the presentation.

3. Adjournment.

Without objection, the General Development Committee meeting adjourned at 8:55 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the General & Economic Development Committee of the City of Mesa, Arizona, held on the 7th day of February 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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attachments (2)