

COUNCIL MINUTES

May 13, 1999

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 May 13, 1999 at 7:30 a.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Shelly Allen
Vince Anderson
Don Ayers
Joan Baier
Wayne Balmer
Neal Beets
Denise Bleyle
Jamie Brennen
Karen Calacci
Candace Cannistraro
Dennis Compton
Mark Coon
Linda Crocker
Jack Friedline
Gerry Gerber
Joe Holmwood
Mike Hutchinson
Barbara Jones
Karen Kille
Ron Krosting
Dorinda Larsen
Rich Lorig
Greg Marek
Tom Mattingly
Frank Mizner
Ruth Anne Norris
Terri Palmberg
Ellen Pence
David Plumb

STAFF PRESENT (CONT.)

Bryan Raines
Andrea Rasizer
Tom Remes
Becky Richardson
Sharon Seekins
Jenny Sheppard
Jan Strauss
Doug Tessendorf
Kim West
Mindy White
Paul Wilson
Others

OTHERS PRESENT

Vince DeBella
Debra Duvall
Cliff Harris
Don Hildebrandt
John McNamara
Malcolm Ross
Tom Verploegen
Celeste Werner
Claudia Walters
Others

Mayor Brown excused Councilmember Jaffa from the beginning of the meeting. Councilmember Jaffa joined the meeting at 7:36 a.m.

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

1. Review items on the agenda for the May 17, 1999 Regular Council meeting.

All of the items on the agenda were discussed among Council and staff with no formal action taken. There was discussion relative to the following agenda items:

4. Consider the following liquor license applications:

c. RONALD D. LORENZO, AGENT

New Beer and Wine Store License for Albertson's Express #948, 461 North Val Vista Drive.

In response to a question from Councilmember Pomeroy, City Manager Charles Luster advised that a protest has been filed by citizens in the adjoining residential area. Mr. Luster noted that the application represents the second filed at this location and discussed staff's concerns relative to the granting of this license.

Councilmember Kavanaugh questioned whether the State has reviewed cases similar to this in the past and, if so, requested that staff research and advise what the State's decision was on the similar cases.

Tax and Licensing Administrator Don Ayers indicated that staff will pursue this matter and provide the information prior to the meeting.

5. Consider the following contracts:

*g. One replacement copier for the Library. This copier will be used at the main branch in the Technical Services area.

In response to questions from Councilmember Jaffa relative to whether staff has pursued the advantages/disadvantages of purchasing a digital copier, Purchasing Director Sharon Seekins indicated that staff will solicit information on the digital copiers and report to the Council on their findings.

*h. One 20' custom enclosed cargo trailer as requested by the Police Department.

In response to a request for additional information regarding the cargo trailer, Mr. Luster advised that staff will provide a breakdown of the costs associated with this contract for Council's review.

*k. Annual supply contract for copier paper as requested by the Materials and Supply Division Warehouse.

Councilmember Hawker commented on the fact that documents distributed to Council and staff remain single-sided and stated the opinion that printing all materials two-sided should be considered. Councilmember Hawker also posed questions relative to the recycling content of copier paper utilized by the City and requested information relative to this issue as well as departments which are currently utilizing recyclable materials.

Councilmember Hawker encouraged staff to utilize paper with higher recycling content and to copy two-sided documents whenever feasible and practical to do so.

Additional discussion ensued relative to this issue and Mayor Brown directed staff to research this matter and present a report on their findings to the Council at a future meeting.

- o. One-year renewal of the annual supply contract for construction materials used by Street Maintenance, Utility Construction, Electric, Parks Maintenance and other departments.

In response to a question, Ms. Seekins answered that Councilmember Hawker's company was not a participant in this bidding process. Mayor Brown stated that this item will be placed on the Consent Agenda.

- *p. Falcon Field Municipal Airport taxiway B-10 improvements, hangar pavement reconstruction.

Councilmember Hawker indicated that he has a potential conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting and because of such conflict, he would refrain from discussing and/or participating in any manner in connection with same.

Mayor Brown commented that this item will be removed from the Consent Agenda.

- *q. Summit Park, City of Mesa Project No. 98-28. This project consists of the construction of a new park facility at 6237 E. Virginia Street.

Councilmember Hawker indicated that he has a potential conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting and because of such conflict, he would refrain from discussing and/or participating in any manner in connection with same.

Mayor Brown commented that this item will be removed from the Consent Agenda.

In response to a request from Councilmember Jaffa, Mr. Luster advised that staff will prepare a brief presentation on this agenda item.

- 6. Introduction of the following ordinances and setting June 7, 1999 as the date for the public hearing on these ordinances.

- *c. **Z99-21** - The northeast corner of Main Street and Dobson Road.

In response to questions from Councilmember Jaffa relative to this agenda item, Community Development Manager Wayne Balmer explained that this item relates to the redevelopment of the former Tri-City Mall area.

Councilmember Jaffa expressed the opinion that this site represents an important piece of property in Mesa and indicated his intention to closely scrutinize all proposals presented to the Council.

Mayor Brown noted that this item has been placed on the agenda for introduction and suggested that it be removed from the Consent Agenda to allow the applicants an opportunity to present information on their proposal to the Council.

Councilmember Davidson requested that the following item also be removed from the Consent Agenda:

- *m. **Z99-41** - East and west sides of Stapley Drive, north of McKellips Road.

- 7. Consider the following resolutions:

- a. Approving the 1999-2000 annual assessments for Mesa Town Center Improvement District No. 228.

In response to a question from Councilmember Pomeroy, City Attorney Neal Beets discussed the fact that following declarations of conflict of interest by members of the Council affected by Mesa Town Center Improvement District No. 228, the Councilmembers will then be allowed to cast their votes in order to reach a majority vote of the Council regarding this agenda item.

2. Discuss and consider a preliminary draft for the Downtown Concept Plan.

Redevelopment Director Greg Marek addressed the Council relative to this agenda item and requested Council direction regarding the proposed draft of the Downtown Concept Plan. Mr. Marek introduced Celeste Werner, Don Hildebrandt and John McNamara, representing the firms BRW and LDR, to the members of the Council.

Mr. Hildebrandt referred to illustrations displayed in the Council Chambers which outlined proposed alternative Concept plans, including the "Preferred Concept Plan," and noted that the alternatives were developed based upon information gathered at Charettes with various downtown business and property owners, citizens, City staff, Downtown Development Committeemembers, members of the Planning and Zoning Board, and General Development Committeemembers.

Discussion ensued relative to workshops that were conducted, the importance of simplifying the plan while maintaining the existing diversity that exists in the area, development and sector themes, pedestrian/open space framework, the "Preferred Concept Plan," and the fact that the alternative downtown concept plans were presented to both the Downtown Development Committee and the General Development Committee.

Mr. McNamara addressed the Council and expressed the opinion that Mesa's downtown area should be comprised of a "four-legged stool," consisting of middle to upper income high density residential development with 15 to 20% affordable housing, government offices, private offices, and arts/cultural/entertainment components. Mr. McNamara emphasized that the "stool" will be supported by a strong base of retail services.

Additional discussion ensued relative to the importance of establishing gateways into the downtown area by use of signage, landscaping and land use and the consultant's intention to identify priorities and present same to the Council.

Councilmember Kavanaugh indicated support for the recommended proposal and stated that the plan addresses a number of major concerns. Councilmember Kavanaugh encouraged the consultants and staff to proceed with implementation strategy.

In response to a question from Vice Mayor Giles, Mr. Marek stated that the proposal would be consistent with the Mesa Verde project and compatible with the lender's requirements.

Councilmember Jaffa stressed the importance of establishing a "night life" in the downtown area and recommended that consideration be given to developing mid-rise or high-rise apartment towers in Town Center.

It was moved by Councilmember Davidson, seconded by Vice Mayor Giles, that the preliminary draft of the Downtown Concept Plan be accepted.

Carried unanimously.

3. Discuss and consider amendments to the Redevelopment Agreement for the Mesa Verde Sports Club and Resort Project.

Redevelopment Director Greg Marek and Malcolm Ross, President of Interactive Leisure Resources, (ILR) addressed the Council relative to this agenda item. Mr. Marek stated that the purpose of this agenda item is to present the Council with detailed information, including the location of the proposed Aquatics Center.

Mr. Marek informed the Council that concerns exist regarding the location of the proposed Aquatics Center with the Mesa Verde project and advised that ILR no longer believes that it would be economically viable to co-locate the facilities. Mr. Marek added that ILR's lender has recommended that the two facilities be located a minimum of five-miles apart in order to avoid economic conflict between the two facilities.

Mr. Marek discussed staff's recommendation that in order to address the lender's concerns, the Aquatics Center be located at least three and a half miles from downtown in order to ensure that the facility does not constitute an economic threat to the Mesa Verde Project. Mr. Marek added that in the event the City decides to locate the Aquatics Center in the downtown area or within three and a half miles of the Mesa Verde Project, language would be contained in the agreement stipulating that the City of Mesa will not retrofit the Aquatics Center to include recreational activities that would include water slides and related activities.

Discussion ensued relative to the fact that in order for ILR's lender, Parkhurst, to include the 9,500-seat multi-purpose entertainment arena (including three ice rinks) in the project financing, a parking garage must be constructed and staff's recommendations relative to proceeding with garage (items 1 through 6 as outlined in the May 6, 1999 Council Report (copy attached).

Mr. Marek also discussed staff's intention to amend the performance schedule as follows: 1) ILR will submit an application for a Standby Letter of Credit (SLOC) no later than July 1, 1999, 2) approval of the SLOC must be received by November 1, 1999, 3) a completion bond and completed financing package by Parkhurst must be in place no later than January 1, 2000, and 4) construction will commence by January 2000. Mr. Marek added that if the SLOC is not approved by November 1, 1999, the City has the option to issue a new Request for Proposals for Site 17. Mr. Marek noted that ILR is in agreement with the proposed schedule. Mr. Marek commented that should the Council approve staff's recommendations, formal amendments will be presented for consideration at a future City Council meeting.

Councilmember Pomeroy indicated that he supports the proposed schedule amendments and conditions for constructing the parking garage and stressed the importance of proceeding with the project as quickly as possible.

Vice Mayor Giles stressed the importance of maintaining public access to the parking garage and indicated his intention to continue to monitor this issue.

Councilmember Kavanaugh concurred with staff's recommendations and stated that if the complexion of the area is going to change, the facility should be relocated. Councilmember Kavanaugh recommended that additional discussion occur regarding this important factor.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that staff be requested to review the language and prepare formal minutes of this item and directed to proceed with the next step in carrying out the proposal and that the issue be further discussed by the City Council at one of their scheduled meetings in June.

Councilmember Davidson expressed the opinion that a significant part of the Aquatics Center is swimming instruction and stated that an abundance of swimming instruction classes already exist in a number of the City's junior high school facilities.

Councilmember Hawker commented that he will support the motion to proceed but requested that a meeting be held with the members of the Aquatics Board. Councilmember Hawker also requested additional information from staff, including spread sheets indicating the total costs to the City of Mesa and the development of a sunset clause provision in the agreements.

(Mayor Brown excused Vice Mayor Giles from the meeting at 9:02 p.m.)

Mayor Brown expressed the opinion that the facility should remain located in the downtown area.

Councilmember Jaffa concurred with Councilmember Hawker's concerns relative to determining the total City of Mesa cost for the project and agreed with the importance of public access to the parking garage.

Additional discussion occurred relative to costs and Mayor Brown commented that this item should be placed on the agenda of a future Council meeting for additional discussion by the Council.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

4. Discuss and consider a possible amendment to the smoking ordinance as it applies to bars in restaurants.

Building Inspections Superintendent Tom Mattingly addressed the Council relative to this agenda item and advised that staff is seeking clarification and direction from the Council regarding the interpretation of Section 6-11-2A of the smoking regulations outlined in Ordinance No. 3287. Mr. Mattingly informed the Council that T.G.I. Friday's restaurant presented an engineered alternative to self-closing doors, independent ventilation with negative pressure in the smoking area, and indicated that this alternative method appears to effectively meet the "reasonable requirement" provision of the ordinance to ensure that air within the designated smoking area does not drift or vent into non-smoking areas. Mr. Mattingly reported that T.G.I. Friday's was granted an exception on a single-case basis to determine whether any complaints would be forthcoming and whether the theory of mechanical separation would meet the intent of Section 6-11-1, "protecting people from dangerous, unnecessary and/or involuntary health risks."

Discussion ensued relative to the fact that the original ordinance allowed engineered mechanical systems in all smoking areas but was subsequently deleted based on the expense and inefficiency of single-pass cooling systems, the fact that although T.G.I. Friday's engineered alternative to self-closing doors is not a single-pass system, it does ensure a negative pressure differential in the smoking areas and forces the mechanical system in the designated smoking area to incorporate a high rate of exhaust air (to the outside), the fact that the system significantly improves the environmental air within the smoking area itself, the fact that to date staff has not received any complaints about smoke from citizens/customers of T.G.I. Friday's, and staff's request for clarification and direction regarding the future interpretation and enforcement of the City's smoking regulations.

Mr. Mattingly advised that he has discussed this issue with Dr. Cliff Harris, the originator of the initiative which resulted in the adoption of the current ordinance and stated that Dr. Harris is present to address the Council and respond to questions.

Dr. Harris commented that although he does not support liberalizing the existing ordinance, in his opinion staff's recommendation that consideration be given, on a case-by-case basis, to engineered alternatives to full physical separation requirement appears reasonable. Dr. Harris emphasized that the applicants would be required to meet stringent conditions and that repeated smoke-related complaints from citizens/customers will result in the retro-fitting of tight-fitting, self-closing doors or the cessation of smoking in accessory bars. Dr. Harris informed the Council that he does not oppose staff's recommendation and added that the alternative appears to be within the intent of the smoking ordinance.

Mayor Brown stated that he was skeptical that the alternative system would operate effectively and personally visited T.G.I. Friday's on two separate occasions to witness firsthand the efficiency of the engineered alternative system. Mayor Brown informed the Council and those present in the audience that he walked throughout the restaurant and was unable to detect the odor of smoke in any of the non-smoking areas. Mayor Brown said that the system operated in an efficient and effective manner and appears to be an excellent alternative proposal.

Vice Mayor Giles expressed appreciation to Dr. Harris on his efforts to protect the public health and his reasonable approach to the subject of alternative systems.

Councilmember Kavanaugh concurred with Vice Mayor Giles' remarks and expressed the opinion that the technology addresses the underlying purpose of the ordinance. Councilmember Kavanaugh commented that he shares the goal of having a more 'smoke-free' society but added that the proposed alternative system is reasonable and deserving of support.

Councilmember Davidson expressed concerns regarding diminishing the overall effectiveness of the smoking ordinance and cautioned against broadening interpretations of the existing ordinance. Councilmember Davidson also stressed the importance of clearly defining the term 'physical separation.'

Councilmember Hawker concurred with Councilmember Kavanaugh's remarks relative to redrafting the ordinance and moving forward.

Councilmember Pomeroy requested that staff monitor the alternative system at T.G.I. Friday's and inform the Council of any problems and/or complaints that may arise.

Mayor Brown commented that it is the consensus of the Council that staff proceed as requested and thanked Mr. Mattingly and Dr. Harris for their input.

5. Discuss and consider a future fire station site in the area of 80th Street and East McDowell Road as recommended by the Fire Committee.

Mayor Brown advised that this item will be discussed at a future meeting.

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

- a. Downtown Development Committee special meeting held May 4, 1999.
- b. Housing and Human Services Advisory Board meeting held April 27, 1999.
- c. Library Advisory Board meeting held May 4, 1999.
- d. Museum and Cultural Advisory Board meeting held April 28, 1999.
- e. Transportation Committee meeting held April 29, 1999.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that receipt of the above listed minutes be acknowledged.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those present.

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

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

8. Scheduling of meetings and general information.

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

Friday, May 14, 1999, 8:00 a.m. – Ad Hoc Committee on Impact Fees

Thursday, May 20, 1999, 7:30 a.m. - Study Session (followed by a Police Committee Meeting)

9. Prescheduled public opinion appearances (there will be a maximum of three speakers for three minutes per speaker).

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

10. Items from citizens present. (Maximum of three speakers for three minutes per speaker).

Mayor Brown advised that there were no items from citizens present.

11. Adjournment.

Without objection, the Study Session adjourned at 9:14 a.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

Attachment

Study Session
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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 13th day of May, 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK

COUNCIL REPORT

Date: May 13, 1999
To: Mayor and City Council
Through: C. K. Luster, City Manager
From: Wayne Balmer, Community Development Manager
Subject: Proposed Amendments to the Redevelopment Agreement for the Mesa Verde Sports Club & Resort Project (Site 17)

Purpose and Recommendation

The purpose of this report is to discuss and consider proposed amendments to the Redevelopment Agreement for the Mesa Verde Sports Club and Resort project. The Redevelopment staff recommends that we proceed with the proposed amendments as discussed below.

Background

At the April 1, 1999 Study Session, the City Council discussed three issues regarding proposed amendments to the Redevelopment Agreement with Interactive Leisure Resources (ILR) regarding the Mesa Verde Sports Club and Resort project. These amendments were necessary, according to ILR president Malcolm Ross, for him to complete the financing arrangements for the project.

The following issues were discussed at the Study Session:

1. Construction of a parking garage
2. Modifications to the ground lease for Site 17, and
3. Location of the proposed Aquatics Center.

Council provided direction regarding the parking garage and ground lease, but further discussion was needed regarding the location of the proposed Aquatics Center. We told Council that we would return in 30 days and discuss our recommendations for proposed amendments to the Redevelopment Agreement.

Discussion

Discussed below are the points that are proposed to be included in the amendments to the Redevelopment Agreement with Interactive Leisure Resources:

Construction of a Parking Garage

In order to have ILR's lender, Parkhurst, include the 9,500-seat multi-purpose entertainment arena (including three ice rinks) in the project financing, a parking garage must be constructed. To build this garage, it is proposed that ILR and the City do the following:

1. ILR bears all risk in the constructing, financing, and managing a 1,600-space parking garage. The garage, which will be located on the existing city-owned surface parking lot located north of the Sheraton Hotel.
2. The City will participate in financing the parking garage by making General Fund payments in an amount equal to the 1 % city sales tax generated by the Mesa Verde project for a period not to exceed 20 years or to a present value computed at 8.5% per annum not to exceed \$9 million, whichever occurs first. *The City will not be issuing any debt since ILR assumes all of the financing responsibilities and risks.*
3. The City will include the parking garage site (city-owned surface parking lot north of the Sheraton Hotel) within the boundaries of Site 17 under the same terms as the rest of Site 17 (\$100,000/acre).
4. The City will abate property taxes and apply the City rate for utilities for 8 years from the date of the issuance of the Certificate of Occupancy. This is currently in the agreement for the Site 17 land.
5. The City will assign to ILR all existing parking lease agreements related to the surface parking lot and will provide existing tenants with interim parking during construction.
6. Public access shall be provided to the parking garage.

Modification to the Ground Lease for Site 17

ILR proposes to amend the Redevelopment Agreement so that the City would grant the immediate lease of Site 17 to ILR. The City reserves the right to issue a building permit until financing and a completion bond are secured. The lease would have a sunset clause so that if the building permit was not issued by a specific date, the City has the right to cancel the lease. Additionally, the lease term would increase from 15 years to 20 years to correspond with the time frame for the parking garage financing arrangement. However,

the City is still repaid for the land in 15 years as required in the current Redevelopment Agreement.

Location of the Aquatics Center

Upon further study and review, ILR no longer believes it is economically viable to co-locate the proposed Aquatics Center with the Mesa Verde project. However, ILR's lender is still concerned that there could be some economic conflict between the two projects if both are located in the downtown area. According to the lender, there could be significant impacts if the Aquatics Center were adapted or retrofitted away from the competitive swimming focus to a broader recreational use that would include water slides and related activities.

To address ILR's and the lender's concerns, we recommend that if the Aquatics Center were located at least 3 1/2 miles from downtown it would not constitute an economic threat to the Mesa Verde project. In the event the City would like to locate the Aquatics Center in the downtown area, or within 3 1/2 miles of the project, there would be language in the Agreement that the City would not retrofit the Aquatics Center to include recreational activities that would include water slides and related activities.

Schedule

Since we are making changes to the agreement, it will also be necessary to make changes to the performance schedule. As discussed with City Council, to secure the financing for the project, Parkhurst is requiring a Standby Letter of Credit (SLOC). ILR cannot make an application for the SLOC until the Redevelopment Agreement amendments are approved by City Council and the feasibility studies for the project are updated. The updates to the feasibility studies are nearing completion.

We are proposing to modify the schedule as follows:

Submission of application for SLOC (to lender)	No later than July 1, 1999
Approval of SLOC	November 1, 1999
Completion bond and completed financing package by Parkhurst	No later than January 1, 2000
Start of Construction	January 2000

If the SLOC is not approved by November 1, 1999, the City has the option to issue a new Request for Proposals for Site 17. ILR is in agreement with the proposed schedule.

COUNCIL REPORT

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Summary

Based on City Council direction, we will bring the formal amendments for consideration at the first available City Council meeting.

Staff Originator

Division Manager

Department Manager

City Manager

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