

# COUNCIL MINUTES

January 12, 2006

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 January 12, 2006 at 7:30 a.m.

## COUNCIL PRESENT

Mayor Keno Hawker  
Rex Griswold  
Kyle Jones  
Tom Rawles  
Janie Thom  
Claudia Walters  
Mike Whalen

## COUNCIL ABSENT

None

## OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Barbara Jones

### 1. Discuss and consider the speed hump program.

Mayor Hawker advised that this item was discussed at the October 20, 2005 Transportation Committee meeting and noted that the Committeemembers recommended not to change the City's Speed Hump Policy at the present time. He stated that if voters approve additional revenue sources for the City in the May 16, 2006 General Election, this item could be reconsidered in the future.

Councilmember Griswold concurred with the Committee's recommendation, but commented that he would be willing to make cutbacks in other City programs in order to provide funding for the Speed Hump Program. He noted that speed humps are a useful tool to slow down traffic in neighborhoods and are, in his opinion, more effective than a photo radar van.

Councilmember Rawles requested that the matter not be "singled out" at this time and preferred that it be discussed and considered by the Council before the May election as a component of the alternative budget process.

Mayor Hawker explained that the only reason it may be appropriate for the Council to discuss the issue today would be to provide input regarding which of staff's four alternatives should be modeled into the budget if the program was once again funded by the City.

Councilmember Rawles stated that such a discussion should occur during the budget hearings and noted that it would be unfair to highlight issues that could impact the May election. He requested that City Manager Christopher Brady review every item that comes forward on the agenda to ensure that it does not have a similar unfair potential with regard to the election.

Vice Mayor Walters explained that the Speed Hump Program, at the request of Councilmember Griswold, was presented to the Transportation Committee prior to any election considerations.

She indicated that the City is not currently funding the program and stated that she would not object to the Council delaying their discussion of the matter until a future time.

Development Services Manager Jack Friedline apologized to the Council if staff mistakenly used the May 16, 2006 General Election as a possible revenue source for the Speed Hump Program. He explained that the Transportation Committee requested staff to examine future revenue sources for the program and said that staff assumed that the May election would be the only one in the near future. Mr. Friedline added that the Speed Hump Program is currently a very low priority of the Streets Program, but noted that staff would adjust its ranking as directed by the Council.

Mayor Hawker stated that in the interim, staff's proposed Alternative 4, "Continue with the Current Resident-Funded Speed Hump Program," as listed on the January 6, 2006 City Council Report, would remain in effect pending future Council discussion of the matter.

In response to a question from Councilmember Griswold, Mr. Friedline clarified that staff would research whether Community Development Block Grant (CDBG) funds could be used to subsidize the Speed Hump Program.

City Manager Christopher Brady reported that he has recently been provided a proposed alternative budget calendar schedule and requested additional time to work through the details and obtain Council feedback in this regard.

## 2. Discuss and consider changes to the agenda language.

City Attorney Debbie Spinner reported that this item is in follow-up to questions that arose during the December 19, 2005 Regular Council meeting relative to the manner in which items may be removed from the Consent Agenda and also whether Mesa is required to agendize a public hearing when the Council is considering adoption of an ordinance. She explained that the Council directed staff to propose amendments to the agenda to clarify said concerns.

Ms. Spinner's comments included, but were not limited to, the following: that in preparing the agenda, the City is subject to the Open Meeting Law; that the law is fairly general in this regard; that the agenda simply must provide the public with reasonable notice as to the items that would be discussed/considered by the Council; that in her opinion, the current agenda process complies with the Open Meeting Law; and that staff could continue with said process or make procedural changes per Council direction.

Ms. Spinner referred to the January 12, 2006 City Council Report and briefly highlighted her legal analysis and proposed options regarding the following issues: 1.) Removal of Items from the Consent Agenda; and 2.) Public Comment is Permitted Prior to Council Consideration of Proposed Ordinances. (See Attachment 1.)

In response to a question from Councilmember Rawles, Ms. Spinner clarified that with regard to ordinances, there is a statutory public hearing requirement that allows a citizen to remove such an item from the agenda.

Councilmember Thom commented that she would prefer that the City continue its practice of allowing a citizen to request that an item be removed from the Consent Agenda. She also expressed support for Alternative 2 as contained on a document entitled "Alternative For Agenda Language Re: Public Comments For Ordinances," which was distributed to the Council

by Ms. Spinner. (See Attachment 2.) Councilmember Thom added that it is also important that a citizen address only the item that has been removed from the agenda and not unrelated matters.

In responding to Councilmember Thom's comment, Mayor Hawker clarified that he would have the discretion to prevent citizens from speaking on issues that were not associated with the item removed from the Consent Agenda.

Councilmember Rawles expressed support for the proposed "Citizen Participation" paragraph and Option 2 "Consent Agenda" language as contained in the January 12<sup>th</sup> City Council Report, and also Alternatives 1 and 2 as listed in the "Alternative For Agenda Language Re: Public Comments For Ordinances" document. He stated that such changes to the agenda would maximize citizen participation and more clearly define when citizens are permitted to address the Council, particularly regarding ordinances.

Vice Mayor Walters concurred with Councilmember Rawles' comments. She also suggested that Ms. Spinner reword the language contained in Alternative 2 to the effect that if citizens wish to request that an item related to an ordinance be removed from the Consent Agenda, that they submit a blue card to the City Clerk before the Council votes on the Consent Agenda.

Councilmember Whalen said that there have been occasions when a citizen has been in support of an item and requested that it be removed, not knowing that it would have been approved if it remained on the Consent Agenda. He questioned whether it would be appropriate for certain staff members to be present in the Council Chambers prior to the Council meeting in order to respond to citizens' procedural questions and concerns.

Councilmember Griswold concurred with Councilmember Whalen's suggestion and commented that it is important to educate citizens regarding the manner in which a City Council meeting is conducted.

Ms. Spinner suggested that staff prepare a brief instructional sheet that could be distributed to citizens outlining the manner in which a City Council meeting is conducted.

Councilmember Rawles suggested a number of grammatical modifications to the agenda alternatives proposed by Ms. Spinner.

Mayor Hawker stated that Council is in concurrence with the proposed agenda changes as suggested by Councilmember Rawles. He instructed staff to implement such changes for the January 23, 2006 Regular Council meeting agenda and said if additional modifications are necessary, the item could be brought back to the Council for further discussion and consideration.

### 3. Appointments to boards and committees.

Mayor Hawker recommended the following appointments to Boards and Committees:

#### BUILDING BOARD OF APPEALS

Spencer Arnett – Term Expires June 30, 2007

ECONOMIC DEVELOPMENT ADVISORY BOARD

LOCAL PUBLIC SAFETY FIRE PENSION BOARD

LOCAL PUBLIC SAFETY POLICE PENSION BOARD

City Manager Christopher J. Brady

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that the Council concur with the Mayor's recommendations and the appointments be confirmed.

Carried unanimously.

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

Councilmember Thom	Arizona Department of Transportation Meeting; Southeast Valley Regional Association of Realtors' Officers Installation
Mayor Hawker	Intergovernmental Forum on Revenue Systems in Washington, D.C.
Councilmember Whalen	Meeting with representatives of Alert Star Company

5. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Thursday, January 19, 2006, 7:30 a.m. – Study Session

Monday, January 23, 2006, TBA – Study Session

Monday, January 23, 2006, 5:45 p.m. – Regular Council Meeting

Thursday, January 26, 2006, 7:30 a.m. – Study Session

Thursday, January 26, 2006, 8:30 a.m. – Fire Committee

6. Items from citizens present.

There were no items from citizens present.

7. Adjournment.

Without objection, the Study Session adjourned at 8:14 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 12th day of January 2006. I further certify that the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
BARBARA JONES, CITY CLERK

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attachments (2)

# City Council Report

**Date:** January 12, 2006  
**To:** City Council  
**Through:** Christopher J. Brady  
**From:** Debbie Spinner  
**Subject:** Proposed Changes to the Council Agenda

## Purpose and Recommendation

The purpose of this report is to recommend changes to the Council agenda for Regular Council Meetings to (1) clarify how items may be removed from the consent agenda, and (2) clarify that all citizens are permitted to speak prior to Council consideration of proposed ordinances.

The recommended changes are identified below.

## Background

At the Regular Council Meeting on December 19, 2005, questions were raised regarding how items may be removed from the consent agenda and whether Mesa is required to agendize a public hearing when Council is considering adoption of an ordinance. Council directed staff to propose amendments to the agenda to clarify these issues.

## Discussion

### Removal of Items from the Consent Agenda:

Section 1-5-7(C) of the Mesa City Code states that an item may be removed from the consent agenda "[A]t the request of any Councilmember." The code does not require that Council remove a consent agenda item at the request of the public. However, Section 1-5-8(A) of the Mesa City Code gives the Mayor authority to determine all questions of parliamentary procedure, not provided by law. Thus, the Mayor has authority to allow citizens to remove items, but is not required to. Historically, the Mayor has honored the request of citizens and has removed any item requested.

Council may select any change it desires. Below are several options.

**Option 1:** Allow only Councilmembers to remove items from the consent agenda, but allow citizens to speak on identified items before Council votes on the consent agenda. The process

would be as follows: (a) the consent agenda is read, (b) citizens wishing to speak on an item on the consent agenda are given a specific amount of time to address the item, (c) Councilmembers are given an opportunity to remove the item, and (d) the Council votes on the consent agenda.

If Council selects this option, the wording on the agenda may read as follows:

#### CONSENT AGENDA

All items listed with an asterisk (\*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember requests, in which event the item will be removed from the Consent Agenda and considered as a separate item. **IF A CITIZEN WOULD LIKE TO DISCUSS AN ITEM ON THE CONSENT AGENDA, HE/SHE SHOULD COMPLETE A BLUE CARD AND GIVE IT TO THE CITY CLERK PRIOR TO THE CITY COUNCIL'S VOTE ON THE CONSENT AGENDA.**

**Option 2:** Change the language on the agenda to allow citizens to remove items from the consent agenda. The following language is one option.

#### CONSENT AGENDA

All items listed with an asterisk (\*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember **OR CITIZEN** requests, in which event the item will be removed from the Consent Agenda and considered as a separate item. **IF A CITIZEN WOULD LIKE TO REQUEST THAT AN ITEM BE REMOVED FROM THE CONSENT AGENDA, HE/SHE SHOULD COMPLETE A BLUE CARD AND GIVE IT TO THE CITY CLERK PRIOR TO THE CITY COUNCIL'S VOTE ON THE CONSENT AGENDA.**

**Option 3:** Direct staff to prepare an amendment to Mesa City Code Section 1-5-7 that would codify a citizen's ability to remove an item from the consent agenda.

#### Public Comment is Permitted Prior to Council Consideration of Proposed Ordinances:

Section 211(B) of the City Charter states that ordinances must be introduced and then considered by Council, after a public hearing. The Charter does not define what type of procedure is required for the public hearing. The intent is to ensure that the public has an opportunity to speak and provide input to the Council prior to its consideration of the ordinance.

Section 11-18-8(E) of the Mesa City Code states that before Council may consider a zoning ordinance, the item must be presented to the Planning and Zoning Board, "who shall hold a public hearing and forward a recommendation to the City Council. After such hearing, the Council may adopt the recommendation of the Planning and Zoning Board without holding a second public hearing provided there is no objection, request for public hearing, or other protest." Again, the intent is to ensure that citizens are provided an opportunity to speak.

Mesa provides an opportunity for public comment by allowing citizens to remove items from the consent agenda and address the Council regarding the particular issue. Mesa's current procedure meets the requirements and intent of both the Charter and Code. However, some citizens have

expressed confusion regarding the agenda language. The City Council's goal is to encourage public participation. To eliminate any confusion, staff recommends that the following language be added to the beginning of the agenda:

### **CITIZEN PARTICIPATION**

**All citizens are permitted and encouraged to speak on individual agenda items. If you are interested in speaking on a given agenda item, please fill out a blue card in the back of the room and give it to the City Clerk. When the Council considers the item, you will be called to the podium to provide your comments.**

Staff recommends that this language be added to the beginning of the agenda, and not just when ordinances are being considered so that citizens do not assume public comment is only permitted on specific agenda items.

Staff also recommends that the agenda item that introduces ordinances be changed to state: "Introduction of the following ordinances and setting \_\_\_\_\_, 2006 as the date for Council consideration on these ordinances."

If Council desires, staff can also add language to agenda items where Council will consider adoption of ordinances. Staff would recommend language such as "Discuss, consider, and take public comment, if requested, to the following ordinances." The concern with using this language is that citizens interpret this to limit their ability to speak on other items.

**Alternatives:** Staff can incorporate any changes recommended by the City Council.

**Fiscal Impact:** None.

Debbie Spinner  
City Attorney

Christopher J. Brady  
City Manager

## **ALTERNATIVE FOR AGENDA LANGUAGE RE: PUBLIC COMMENTS FOR ORDINANCES**

The agendas currently read as follows:

1. Introduction: "Introduction of the following ordinances and setting \_\_\_\_\_, 2006 as the date of public hearing on these ordinances."
2. Consideration: "Consider the following ordinance"

### **Alternative**

1. Introduction: "Introduction of the following ordinances and setting \_\_\_\_\_, 2006 as the date of the public comment and Council consideration on these ordinances."
2. Consideration: "This is the time set to discuss, receive public comment, and consider the ordinances that were introduced at a prior Council meeting. Any citizen that wishes to provide comment should submit a blue card to the Clerk before the item is called for a vote by the Council."