

COUNCIL MINUTES

June 13, 1996

The City Council of the City of Mesa met in a Policy Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on June 13, 1996 at 4:00 P.M.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
T. Farrell Jensen
Dennis Kavanaugh
Joan Payne
Jim Stapley

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Don Ayers
Wayne Balmer
Cindy Barris
Neal Beets
Dan Brewer
John Gendron
Tyrone Howard
Mike Hutchinson
Lars Jarvie
Barbara Jones
Wayne Korinek
Ron Krosting
Larry Lines
Ruth Anne Norris
John Oliver
Ellen Pence
Bryan Raines
Andrea Rasizer
Jaime Warner
Mindy White

OTHERS PRESENT

Bill Brando
Leland Fairbanks
Clifford Harris
Chris Moeser
Dan Nowicki
Marilyn Wennerstrom

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

1. Discuss and consider procedures for Council meetings.

Executive Assistant Ellen Pence summarized nine proposed procedural changes to Council meetings developed in an effort to streamline/improve the efficiency of such meetings and to increase publicity concerning agendas.

City Attorney Neal Beets briefly outlined a draft ordinance which updates and clarifies City Council meeting procedures.

Mayor Brown commented concerning the importance of receiving back-up material for Council meetings in a timely manner. Council suggested regular discussions between the Mayor and

City Manager to determine if sufficient information is available for Council review and action on upcoming agenda items.

Councilmember Jensen said that it may be helpful to advise Council in advance of issues to be considered at the two Regular Council Meetings each month.

Council and staff spoke regarding a suggestion to strengthen the use of Council Committees as the opportunity for the public to ask questions and comment concerning agenda items. Council considered the role of Committees, methods to ensure all Councilmembers are advised of Committee discussion/recommendations, and the potential for discussion of items at Study Sessions instead of Committee meetings.

Vice Mayor Gilbert noted benefits of citizen interaction at Committee meetings.

In response to a question from Mayor Brown, Ms. Pence stated that the Lower Level Council Chambers, where Committee meetings are typically held, are not equipped for television broadcasting.

Councilmember Jensen expressed the opinion that interaction is significant between Council Committees and City departments.

Mayor Brown suggested that further discussion pertaining to this agenda item be continued to the next Policy Session.

2. Discuss and consider requiring secondary fencing for residential swimming pools.

Senior Management Assistant Bryan Raines outlined current City requirements concerning swimming pools and fencing. Mr. Raines advised that Mesa's regulations are different from those of various surrounding communities in that many additionally require secondary fencing for residential pools and are governed by ordinances that carry more specific design/construction requirements.

Mr. Raines stated that staff was asked by Council last year to determine the effectiveness of secondary fencing requirements in the City of Phoenix and to estimate installation costs for such fencing. Mr. Raines said that Phoenix considers the barrier code successful, having realized a 50 percent reduction in water-related 911 calls since the inception of the code in 1990. Mr. Raines presented statistical information and added that approximately 10 to 15 percent of the pools in Mesa presently have secondary fencing and that the cost to install a barrier fence is approximately \$1,600.

Mr. Raines indicated that staff's report to Council does not include a recommendation but reported that a basic draft ordinance has been prepared for discussion purposes. Mr. Raines noted five issues to be considered should Council wish to pursue the requirement of a secondary barrier between a dwelling unit and a private pool:

- a) Would self-closing and self-locking doors and windows or an approved safety cover be available as an alternative to a barrier fence?

- b) Should the ordinance include provisions for access barriers to aboveground pools and spas?
- c) Should there be the ability to grant exemptions to the second barrier requirement where it could preclude access by a disabled adult resident?
- d) Would a second barrier be required for all private pools, or would there be exemptions for those owned by families without children, with children above a specific age, or for those located in age-restrictive neighborhoods?
- e) In addition to being required for new construction, would the barrier requirement be retroactive within a specific time frame? Would it apply only upon the sale or new rental of the property? Or, could it be applicable in instances where an existing house (with a pool) is altered or expanded?

Mr. Raines commented that if Council wishes to add a second barrier requirement, consideration of a zoning ordinance by the Planning and Zoning Board would be necessary. Mr. Raines stated that given State statutes and City Charter requirements, the most expeditious schedule would include a special Planning and Zoning hearing during the first week of July, introduction of an ordinance by Council on July 1, and adoption of the ordinance by Council on July 15, with an effective date of August 15.

Fire Chief John Oliver noted that while barrier fencing cannot replace direct supervision, it plays a major role in decreasing drowning/near-drowning incidents. Chief Oliver expressed the opinion that barrier fencing in conjunction with the City's public awareness campaign could significantly decrease water-related deaths and injuries.

Discussion ensued relative to the draft ordinance prepared by staff, including options available, construction/installation specifications, exemptions, the application process, and difficulties associated with attempting to incorporate retroactive provisions. Zoning Administrator John Gendron indicated that information pertaining to multifamily residences has not yet been included.

Councilmember Giles spoke in favor of proceeding with a zoning ordinance revision that would require secondary fencing and/or a motorized safety pool cover; provide an exemption for disabled adults; and require that all existing swimming pools constructed prior to the effective date of the ordinance be brought into compliance upon the sale, lease, or remodel of the residence. Councilmember Giles said that he does not support self-latching devices and alarms as options, provisions for access barriers to aboveground pools and spas, and an exemption if no person under the age of seven years resides permanently on the premises. Councilmember Giles recommended that incentives be offered, such as waiving building fees, to encourage pool retrofitting. Councilmember Kavanaugh concurred with Councilmember Giles' comments.

Vice Mayor Gilbert suggested that consideration be given to both the draft ordinance prepared by staff and an ordinance incorporating the ideas of Councilmember Giles.

Community Development Manager Wayne Balmer advised that this issue could be scheduled for review at a special meeting of the Planning and Zoning Board on Tuesday, July 9, at 4 p.m.

Councilmember Jensen encouraged action relative to this issue but noted the importance of parental accountability. Councilmember Jensen commended the Fire Department for their work and encouraged efforts to promote educational campaigns.

Councilmember Payne requested that statistics be categorized in the future. Councilmember Payne stated opposition to modifying the zoning requirements concerning swimming pools.

3. Further discussion and consideration concerning Proposition 200 smoking regulations.

City Manager Charles Luster noted that July 1, 1996 is the enforcement date for Proposition 200. Mr. Luster requested any further Council direction.

Councilmember Payne stated that she sympathizes with various businesses affected by the measure but suggested that citizens in opposition generate a new initiative to amend Proposition 200.

Councilmember Jensen spoke in favor of proceeding with enforcement on a complaint basis and suggested that time be allotted to evaluate the effects of the proposition and any loss of business.

Councilmember Giles commented that Council is sensitive to the concerns of citizens but has not yet been presented with any proof of loss of business. Councilmember Giles noted support for amending Proposition 200 to exclude public housing, as well as private functions provided the facility complies with the same conditions under which an establishment with a Class 6 liquor license can obtain a variance.

In response to a question from Mr. Luster, Councilmember Giles spoke in favor of an exclusion for tobacco shops with the stipulation that the definition be restricted to require that 90 percent of total sales be derived from the sale of tobacco and/or tobacco products.

Councilmember Giles noted the expense involved relative to the ventilation system required for a variance under Proposition 200 and requested that staff develop alternatives that are as effective but perhaps less costly. Councilmember Giles suggested that Proposition 200 be modified to permit equivalent ventilation systems and that the enforcement date relative to establishments with a Class 6 liquor license be delayed approximately 60 days pending investigation of alternative ventilation systems.

Councilmember Stapley commented concerning the importance of the vote of the citizens. Councilmember Stapley stated the opinion that while changes to Proposition 200 may be needed in the future, the measure should not be amended at this time but should be monitored to evaluate any effects. Councilmember Stapley related positive remarks he has heard from various individuals.

Councilmember Jensen said that he could support an exemption for public housing and an option to delay enforcement relative to establishments with a Class 6 liquor license that are seeking a variance. Councilmember Jensen said that he may be willing in the future to consider methods to accommodate private functions.

Councilmember Kavanaugh noted Council's responsibility to monitor laws. Councilmember Kavanaugh stated agreement with the concept of Proposition 200 but spoke in favor of considering modification pertaining to public housing, private groups, and smoke shops. Councilmember Kavanaugh indicated support for investigating alternative ventilation systems but expressed concern that only those establishments with a Class 6 liquor license may apply for a variance.

Vice Mayor Gilbert commented regarding the significance of amending Proposition 200 to better respond to citizens/businesses but cautioned concerning unknown results.

Mayor Brown noted the importance of the intent of Proposition 200 but stated concern relative to the ventilation system as outlined in the measure and the potential loss of customers for various businesses. Mayor Brown agreed with the suggestion to investigate alternative ventilation systems.

Following additional discussion concerning Proposition 200, Mayor Brown stated that it is the consensus of Council to direct staff to research alternative ventilation systems, to delay enforcement for 60 days relative to establishments with a Class 6 liquor license seeking a variance, and to exempt public housing. Mayor Brown said that Council suggested further review pertaining to smoke shops and accommodations for private functions.

4. Further discussion and consideration concerning a request for a Series 6 liquor license for 903 East Main. Also discuss allowing bars in areas zoned C-2.

Councilmember Giles expressed the opinion that modifying zoning regulations in relation to Proposition 200 would complicate rather than resolve problems. Councilmember Giles stated opposition to a change to allow bars in areas zoned C-2.

Councilmember Jensen concurred with Councilmember Giles and said that he does not favor a zoning revision.

Following additional brief comments, Mayor Brown indicated that Council does not support a change to allow bars in areas zoned C-2.

5. Discuss and consider makeup of the Redevelopment Committee.

(There was no discussion on this item at this time.)

6. Discuss and consider policy for the appointment/reappointment of City Court judges.

Mr. Luster advised that contracts for two City Court judges, Judge Standage and Judge Switzer, will expire in June 1996. Mr. Luster complimented both judges for their work and stated that staff supports their reappointment. Mr. Luster requested direction from Council pertaining to procedures for the potential reappointment of the judges.

Following discussion, Mayor Brown requested that Mr. Luster recommend at the June 14, 1996 Study Session a date and time for Council to interview the two judges in an Executive Session.

7. Discuss and consider regulations for the use of City owned and maintained storm water retention basins.

(There was no discussion on this item at this time.)

8. Scheduling of meetings and general information.

(There was no discussion on this item at this time.)

9. Adjournment.

It was moved by Councilmember Stapley, seconded by Councilmember Gilbert, that the Policy Session adjourn at 5:58 P.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 Policy Session of the City Council of Mesa, Arizona, held on the 13th day of June 1996. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 5th day of July 1996

BARBARA JONES, CITY CLERK