

COUNCIL MINUTES

May 21, 1998

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 21, 1998 at 4:45 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh*
Joan Payne
Wayne Pomeroy
Claudia Walters

COUNCIL ABSENT

None

COUNCIL-ELECT PRESENT

Jim Davidson
Keno Hawker
Bill Jaffa
Pat Pomeroy

STAFF PRESENT

C.K. Luster
Vince Anderson
Pauline Backer
Wayne Balmer
Kathy Barrett
Neal Beets
Denise Bleyle
Dennis Compton
Fred Conway
Mark Coon
Linda Crocker
Joe Holmwood
Mike Hutchinson
Barbara Jones
Harry Kent
Wayne Korinek
Ron Krosting
Dorinda Larsen
Larry Lines
Rich Lorig
Greg Marek
Tom Mattingly
Tracy Mead
Keith Nath

STAFF PRESENT (CONT.)

Ellen Pence
Bill Petrie
Bryan Raines
Andrea Rasizer
Leon Rawlings
Sharon Seekins
Jenny Sheppard
Ursula Strephans
Walter Switzer
Doug Tessendorf
Mindy White
Larry Woolf
Others

OTHERS PRESENT

Steve Arthur
Bill Brando
Luule Brandofino
Joseph McGarry
Ralph Pew
Ben Sheffield
Robbie Sherwood
David Gaone
Others

*Mayor Brown advised that Councilmember Kavanaugh will participate in the entire meeting through the use of telephone conferencing.

Mayor Brown excused Councilmember Payne from the beginning of the meeting. (Councilmember Payne joined the meeting at 4:56 p.m.)

1. Review items on the agenda for the May 21, 1998 Regular Council meeting.

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

- 4.2 Consider a resolution authorizing the City Manager to execute the Disposition and Development Agreement with the Voit Development Company, Inc., for Site 21 (former Bank One Building).

In response to a question from Vice Mayor Gilbert, City Attorney Neal Beets advised that he has reviewed this proposal and was unable to find any reason why any members of the Council would be required to declare conflicts of interest in regard to this agenda item.

7. Consider the following contracts:

- e. One replacement SWAT Vehicle requested by the Police Department.

City Manager Charles Luster informed the Council that the protestors have decided not to pursue this matter and added that the item may be placed on the Consent Agenda.

Mayor Brown advised that this item will be placed on the Consent Agenda.

- g. Mesa Southwest Museum Expansion, 53 North Macdonald Street.

Public Works Manager Harry Kent pointed out that the revised contract award is \$4,499,255.00.

Mayor Brown advised that this item will be placed on the Consent Agenda.

- h. Mesa Town Center Streetscape Improvements.

Mr. Kent provided the Council with brief background information relative to protests that have been filed on this contract and stated that the protestors are present at the meeting and willing to address their remarks at this time.

Mayor Brown indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Vice Mayor Gilbert indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Councilmember Pomeroy indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown yielded the gavel to Councilmember Giles for action on this item.

Joseph McGarry, an attorney with the firm Lewis & Roca in Phoenix, representing Achen-Gardner, the second lowest bidder, referred to a supplement to the bid protest that was filed earlier this week by Achen-Gardner. Mr. McGarry stated the opinion that the low bidder, Arcon, submitted an unbalanced bid and added that the contract should be awarded to Achen-Gardner.

Ben Sheffield, Vice President of Nesbitt Contracting, stated that his company has protested the bid award because the low bidder, Arcon, Inc., submitted an unbalanced bid. Mr. Nesbitt stated the opinion that Nesbitt Contracting is the lowest and most responsive bidder and should be awarded the contract.

David Gaone, an attorney representing the low bidder, Arcon, Inc., stated that Arcon is the lowest bidder and has a proven successful track record with the City of Mesa. Mr. Gaone stated that the company's bid is appropriate and the contract should be awarded to Arcon.

In response to a question from Councilmember Giles, City Attorney Neal Beets expressed the opinion that based on the bidding results, the courts would direct the City of Mesa to award to the lowest apparent bidder, Arcon, Inc. Mr. Beets informed the council that the City of Mesa has been involved in court actions of a similar nature in the past and stated that it has been made clear by the resulting rulings that in order to reject a bid because of an imbalance, the city must prove just cause and prejudice to the City. Mr. Beets stated the opinion that the contract should be awarded to the lowest responsive bidder, Arcon, Inc.

Councilmember Giles thanked the speakers and Mr. Beets for their input.

With action on this agenda item being completed, Councilmember Giles yielded the gavel to Mayor Brown.

8. Introduction of the following ordinances and setting June 1, 1998 as the date for the public hearing on these ordinances.
 - c. Replacement 911 Telephone system Equipment and Dispatch Consoles as requested by the Police Department.

Mayor Brown noted that this item has been pulled from the Consent Agenda to enable the members of the Council to cast their votes in opposition to the item. Mayor Brown added that there will be no discussion of this issue since only the introduction of the ordinance is occurring at this time

9. Consider the following ordinances:
 - a. Increasing the speed limit to 45 miles per hour on Val Vista Drive from Pomegranate to the south City limits.

In response to a question from Councilmember Walters, City Manager Charles Luster explained that this item was removed from the Consent Agenda to allow citizens who are opposed to the speed limit increase to voice their remarks if they so desire.

2. Acknowledge receipt of minutes of meetings of various boards and committees.

- a. Parks and Recreation Board meeting held May 14, 1998.

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

Carried unanimously.

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

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

4. Scheduling of meetings and general information.

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

Friday, May 22, 1998, 7:30 a.m. – New Councilmember Orientation

Friday, May 22, 1998, 5:00 p.m. – Reception for outgoing Councilmembers

Tuesday, May 26, 1998, 7:30 a.m. to Noon – Budget Review Session

Wednesday, May 27, 1998, 7:30 a.m. to Noon – Budget Review Session

Thursday, May 28, 1998, 7:30 a.m. - Budget Review Session

(Mayor Brown declared a recess at 5:20 p.m. and reconvened the meeting at 5:30 p.m.)

5. Prescheduled public opinion appearances (maximum of three speakers for three minutes per speaker).

a. Hear from Sharon Lewis regarding a building at 2864 North Power Road.

Mayor Brown advised that Ms. Lewis is not present to address her remarks to the Council.

6. Adjournment.

Without objection, the Study Session adjourned at 5:31 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 Study Session of the City Council of Mesa, Arizona, held on the 21st day of May 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1998

BARBARA JONES, CITY CLERK