

COUNCIL MINUTES

February 4, 2002

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 February 4, 2002 at 4:45 p.m.

COUNCIL PRESENT

Mayor Hawker
Jim Davidson
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

1. Review items on the agenda for the February 4, 2002 Regular Council Meeting.

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

Mayor Hawker declared conflicts of interest on agenda items 4d (Stapley Drive Median Modification. Baseline Road to Inverness Avenue. City of Mesa Project No. 02-027) and 4e (Utility Location and Potholing by Vacuum Extraction. City of Mesa Project No. 02-085) and stated that he would refrain from discussion/participation on these items.

Vice Mayor Davidson declared a potential conflict of interest on agenda item 6b (Granting a Power Distribution Easement to Salt River Project across City property at the Northwest Water Reclamation Plant) and stated that he would refrain from discussion/participation on this item.

2. Discuss and consider issues associated with the display of campaign-related material/items at City Council or City Advisory Board meetings.

City Attorney Debbie Spinner addressed the Council and provided a legal analysis relative to Council's authority to limit candidates and non-candidates from speaking at Council meetings while wearing campaign buttons, pins, hats or t-shirts. She explained that with regard to Council candidates, the City's Ethics Code and Handbook states: "Elected officials, advisory board

members and candidates shall not engage in political campaigning at City meetings or buildings. They shall also not use public resources for political campaigning.”

Ms. Spinner commented that the Ethics Code and Handbook does not govern non-candidates, and the Council must determine if non-candidates wearing or displaying campaign-related materials would be disruptive to the Council meeting, whether they are merely observing the meeting or addressing the Council at the podium.

Ms. Spinner stated that the Council has the authority to determine the manner in which meetings are conducted, and she requested input from the Council relative to this issue.

Mayor Hawker read a draft of a statement concerning this issue which he intends to read during the “Mayor’s Welcome” at the Regular Council meeting.

Discussion ensued relative to the fact that the Ethics Code and Handbook was adopted by the Council, but that various changes to the City Charter ethics standards were presented for voter approval at the March 14, 2000 Primary election, and the fact that the Charter changes revised and expanded the Council’s ability to impose disciplinary sanctions upon its members.

In response to a question from Vice Mayor Davidson, Ms. Spinner clarified that the Ethics Code and Handbook provides that a candidate may not wear campaign buttons or other political items while attending a Council meeting because it would constitute “political campaigning.” She added, however, that non-candidates would be permitted to wear campaign items if the Council determined that the individual’s conduct was not disruptive to the meeting.

Vice Mayor Davidson expressed concerns regarding distinguishing between the rights of Council candidates and non-candidates relative to wearing or displaying campaign material/items and asked whether the Ethics Code and Handbook could be modified to exclude Council candidates from this provision.

Councilmember Kavanaugh, former Chairman of the Council Ad Hoc Ethics Committee, stated that it was the opinion of the Committee that it was inappropriate and improper for Councilmembers or Council candidates to campaign on City time and on City property. He stressed the fact that when a candidate files for public office, he or she is required to abide by various laws and requirements. Councilmember Kavanaugh stated that adherence to the Handbook provisions is not meant to restrict a candidate’s expression of free speech during a Council meeting, but to prevent City facilities from being utilized for campaign purposes.

Councilmember Pomeroy stated the opinion that non-candidates who are merely displaying campaign items are not disruptive at Council meetings. He noted that individuals who are unaware of the proposed policy will attend future meetings and then not be allowed to present their remarks.

Councilmember Walters concurred with Councilmember Pomeroy’s comments and added that a “disruption” could occur as a result of a non-candidate’s speech as opposed to his or her manner of dress. She stated the opinion that non-candidates should not be required to comply with the various laws and regulations imposed on Council candidates and that they should be permitted to address the Council if they are wearing or displaying campaign items.

Councilmembers Jaffa and Whalen concurred with the opinions expressed by the other Councilmembers.

Councilmember Kavanaugh stated the opinion that non-candidate speaker issues should be handled on a case-by-case basis. He added that while the Council has the discretion to request that non-candidates refrain from wearing campaign items, in his opinion, wearing the items would not constitute a disruption of the Council meeting.

Mayor Hawker concurred with Councilmember Pomeroy's comment and stated that he would not support prohibiting non-candidates from addressing the Council. He added that when a citizen announces his or her candidacy, it is appropriate that they then be required to follow all campaign rules and regulations.

In response to a question from Mayor Hawker, Ms. Spinner reiterated that Councilmembers and advisory board members are not permitted to campaign for Council candidates during City meetings or in City buildings.

Mayor Hawker stressed the fact that when Mesa residents are appointed to the various citizen advisory boards and committees, it is imperative that they are apprised of the Ethics Code and Handbook provisions.

Vice Mayor Davidson thanked Councilmember Kavanaugh and the Council Ad Hoc Ethics Committee for their efforts and hard work. He also acknowledged Council's input regarding this issue and concurred with the other Councilmembers' comments.

Further discussion ensued regarding modifications to Mayor Hawker's draft statement, and possible enforcement of the Ethics Code and Handbook provisions.

Mayor Hawker read the revised draft for the benefit of the Council.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that the revised draft statement regarding the conduct of Council candidates and non-candidates during Council meetings, to be read by Mayor Hawker during the "Mayor's Welcome" at the beginning of the Council meetings, be approved.

In response to a question from Mayor Hawker, Ms. Spinner advised that although Councilmember Jaffa is a Council candidate in District 5, he does not have a conflict of interest and is permitted to vote on this issue.

Vice Mayor Davidson advised that he cannot support the motion as currently written.

Upon tabulation of votes, it showed:

AYES - Hawker-Jaffa-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - Davidson

Mayor Hawker declared the motion carried by majority vote.

3. Hear, discuss and consider a legislative update.

Assistant to the City Manager Jim Huling, Assistant to the City Council Tom Remes, and Management Assistant Kelly Orrick provided the Council with a summary of the 2002 State legislative session with an emphasis on the legislation impacting the City (See Attachment).

Mr. Huling reported that the State's budget shortfall remains a dominant issue during the 2002 legislative session. He explained that just today, another special session of the legislature was called to address the necessary adjustments to balance the Fiscal Year 2002/03 State budget. Mr. Huling stated that in late 2001, a special session was called which reduced the budget by \$650 million, and added that the budget is still facing a shortfall between \$125 million and \$200 million. Mr. Huling noted that in an effort to address the shortfall, Governor Hull has proposed a reduction of \$30 million in Highway User Revenue Funds (HURF); a \$10 million reduction in Heritage funding; an \$83 million reduction from the budget stabilization fund (Rainy Day Fund), and has proposed that State employees' pay raises be delayed until July 2002.

Mr. Huling advised that other legislative budget discussions include a \$1 billion shortfall in the FY 2002/03 budget. He commented that many of the budget-cutting options call for a reduction in State-shared revenues. Mr. Huling assured the Council that staff will remain vigilant in their opposition to the curtailment of local funds and will urge State representatives not to balance their budget "on the backs" of local governments.

Discussion ensued relative to House Bill 2149, HURF Local Revenue Requirements; House Bill 2571, Group Homes; House Bill 2456, Gun-Free Zones and Liability, and House Concurrent Resolution 2028, Establishment of New Counties.

Councilmember Kavanaugh concurred with the recommendations of staff relative to the various bills and voiced opposition to House Concurrent Resolution 2028.

Councilmember Pomeroy commented on Senate Bill 1291, Yellow Signal Duration, and stated the opinion that local authorities should retain the ability to enforce local transportation systems rather than the State.

Councilmember Whalen thanked Ms. Orrick for her efforts and hard work with regard to the defeat of House Bill 2185, Photo Radar.

Mayor Hawker requested that staff provide the Council with additional research and maps relative to House Concurrent Resolution 2028.

Councilmember Walters stated that it is important for Mesa residents to be cognizant of the fact that with the additional proposed reductions in State-shared revenues, the City will become more financially impacted than it already is. She added that the State's budget shortfall is a problem for all of Arizona's cities and counties and not just State government.

Councilmember Jaffa expressed appreciation to State Representatives Dean Cooley and Karen Johnson for their efforts and hard work with regard to legislation affecting the City of Mesa.

Mayor Hawker thanked staff for the presentation.

4. Acknowledge receipt of minutes of boards and committees.

- a. Downtown Development Committee meeting held January 17, 2002.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that receipt of the above-listed minutes be acknowledged.

Carried unanimously.

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

There were no reports on meetings and/or conferences attended.

6. Scheduling of meetings and general information.

City Manager Mike Hutchinson stated that the meeting schedule is as follows:

Thursday, February 7, 2002 – Study Session – Cancelled

Wednesday, February 13, 2002, 3:30 p.m. – Transportation Committee Meeting

Thursday, February 14, 2002, 7:30 a.m. – Study Session

Tuesday, February 19, 2002, TBA – Study Session

Tuesday, February 19, 2002, 5:45 p.m. – Regular Council Meeting

Thursday, February 21, 2002, 7:30 a.m. – Study Session

Mr. Hutchinson noted that on Wednesday, February 13, 2002, at 7:30 a.m., there will be a Development Forum at the Apache Room in the Rendezvous Center. He explained that the focus of the gathering will be the City's Design Guidelines.

Mr. Hutchinson advised the Council that on Thursday, February 14, 2002, at 9:30 a.m., the City's 124th anniversary, the Mesa Heritage Wall will be dedicated.

7. Prescheduled public opinion appearances.

There were no prescheduled public opinion appearances.

8. Adjournment.

Without objection, the Study Session adjourned at 5:42 p.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 4th day of February 2002. 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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Attachment