

COUNCIL MINUTES

December 6, 1996

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 December 6, 1996 at 7:32 a.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh
Joan Payne
Wayne Pomeroy
Jim Stapley

COUNCIL ABSENT

None

STAFF PRESENT

C.K. Luster
Neal Beets
Tanya Collins
John Gendron
Glenn Gorke
Joe Holmwood
Mike Hutchinson
Lars Jarvie
Barbara Jones
Harry Kent
Wayne Korinek
Karen Kurtz
Jeff Martin
Ellen Pence
Bryan Raines
Tom Remes
Denise Samuel
Kathleen Savagian
Mindy White
Ralph Wisz
Others

OTHERS PRESENT

Margie Frost
Kat Gallant
Cliff Harris
Robert Jackson
Richard Manley
Louie Matta
Chris Moeser
Don Morris
Tom Verploegen
Others

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

Mayor Brown excused Councilmember Payne from the beginning of the meeting. Councilmember Payne joined the meeting at 7:50 a.m.

1. Hear and consider a report concerning a homeless shelter feasibility study prepared by Mesa Community Action Network.

Margie Frost and Richard Manley, representing the Mesa Community Action Network, briefly highlighted a report relative to establishing a year-round homeless shelter for single men in or around Mesa. Mr. Manley reported that single homeless men represent the most visible and

under-served segment of the homeless population and noted that according to the Special Census conducted in Maricopa County in 1995, the homeless population increased by 63% between 1985 and 1995. Mr. Manley added that approximately half of the East Valley's homeless population are in Mesa.

Discussion ensued relative to the continuum of care approach, the importance of eliminating the acceptance of homelessness as a way of life and developing self-sufficiency programs, the philosophy that homeless shelter participants must be held accountable for the receipt of services and their progress towards self-sufficiency, and the necessity of refusing to provide additional services to individuals who demonstrate an unwillingness to initiate required steps towards achieving independence.

Mr. Manley stressed that importance of establishing well defined and strictly enforced shelter rules, limits on the length of stay for guests and expected participation of all guests in various types of work. Mr. Manley added that able-bodied guests would be required to work outside of the shelter while guests with mental and/or physical disabilities would work within the shelter.

Discussion ensued relative to limiting the amount of time guests may remain at the shelter, required participation in either a work program and/or intensive case management, the fact that participants would work directly with a case manager to develop a contract outlining specific objectives, the importance of prohibiting 'walk-in' guests and transporting guests to and from the shelter, estimated project costs and site location.

Mr. Manley stated the opinion that in order to be successful, funding efforts would have to be a joint, East Valley effort and discussed Congressman Matt Salmon's offer to assist in raising funds from area businesses for the shelter.

In response to a question from Vice Mayor Gilbert, Mr. Manley discussed shelter eligibility, Paz de Cristo, and the importance of a strong, East Valley cooperative effort in order to proceed with the project.

Vice Mayor Gilbert expressed appreciation to everyone involved in developing the feasibility study and stated the opinion that efforts should continue towards the implementation of a shelter. Vice Mayor Gilbert indicated his willingness to assist in fund raising activities and to meet and work with other communities. Vice Mayor Gilbert also requested that the Mayor invite all potential participants to meet with the Council relative to this issue.

Additional discussion occurred among the members of the Council relative to the homeless shelter.

Mayor Brown advised that he will contact the Mayors of the other cities and suggest a meeting to discuss this issue. Mayor Brown recommended that the members of the Task Force attempt to identify a site for the proposed shelter and determine funding participation among other cities.

Mayor Brown added that he has discussed this issue with Katherine (Kat) Gallant, a citizen who has studied this issue extensively, and based on her suggestion that the homeless be involved in the actual construction of the shelter, Mayor Brown indicated that this recommendation should be further discussed.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Kavanaugh, that the Council approve the concept of establishing a regional homeless shelter for single men as recommended in the feasibility study conducted by the Mesa Community Action Network and that staff and involved agencies work together to determine possible sites and funding sources for the project.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Kavanaugh-Payne-Stapley
NAYS - Giles-Pomeroy

Mayor Brown declared the motion carried by majority vote.

2. Further discussion and consideration concerning smoking regulations.

Mayor Brown referred to a smoking regulations draft prepared by City Attorney Neal Beets in response to the Council's input at a previous meeting.

Vice Mayor Gilbert expressed appreciation to Mr. Beets for his efforts and stated that he acknowledges that a public review and further discussion relative to Mr. Beet's draft is appropriate.

Vice Mayor Gilbert stated the opinion that the draft represents a fair compromise and added that the smoking issue will become part of a nation-wide effort in the future. Vice Mayor Gilbert commented that the draft adequately meets the objectives he articulated at a previous meeting and said that he would support Mr. Beet's proposal.

Councilmember Kavanaugh commended Mr. Beets on his preparation of the draft and stated that the draft constitutes a reasonable compromise which addresses a majority of the problems associated with the current smoking issues. Councilmember Kavanaugh added that the draft preserves the intent and spirit of the original smoking regulations, specifically protecting the public's health. Councilmember Kavanaugh indicated that he would support the draft proposal.

Councilmember Stapley stated that he has not had sufficient time to thoroughly analyze the draft proposal but indicated that the following issues require additional discussion and/or clarification: 1) bowling alleys and billiard halls; 2) tobacco shops: smoking allowed where 75% of gross revenues are related to the sale of tobacco products; 3) wording on proposed signage "unless accompanied by an adult," 4) hardship exceptions and the proposed three year phase-in program; 5) on-stage smoking and bonafide religious purposes, and 6) minors prohibited unless accompanied or supervised by an adult.

Councilmember Stapley also requested that input relative to the draft proposal be provided by the Citizens' Committee.

Councilmember Giles commended Mr. Beets on his efforts and posed several questions relative to the document.

In response to a question from Councilmember Giles, Mr. Beets explained that the standard for the designated smoking areas would be established by the Superintendent of Building Inspections and added that the areas must be separate and independently ventilated. Mr. Beets stated the opinion that the Superintendent would require a smoke barrier and independent duct work separating the smoking areas from the non-smoking areas to prevent drifting or venting of smoke into the smoke-free sections.

Councilmember Giles stated the opinion that the proposed draft would have been appropriate prior to the citizens' approval of Proposition 200 but expressed concern relative to broadening the scope of areas where smoking is allowed. Councilmember Giles recommended that the following revisions to the draft proposal be considered: 1) language should be added to the Accessory Bar definition to clarify that the only foods that can be sold in this area are foods incidental to the sale of alcohol, such as appetizers and snacks; 2) on Page 7 of the draft, Section 6(B), the wording should be change to: "Restaurants with an accessory bar may allow smoking in the accessory bar if it is a designated smoking area." The words "or in any other designated smoking area within or outside the restaurant" should be deleted, and 3) initiate a one-year phase-in period rather than the recommended three-year phase-in period.

(Councilmember Payne joined the meeting at 7:50 a.m.)

Councilmember Giles indicated that except for the items listed on the previous page, he would support the proposed draft and stressed the importance of ensuring that the modifications adhere to the spirit of the ordinance approved by the voters.

Councilmember Pomeroy concurred that the phase-in period should be changed to one year rather than three years and questioned whether designated indoor smoking areas in businesses are a necessity. Councilmember Pomeroy questioned whether the food in restaurants with bars requiring 50% food sales, unless it is a 'mom and pop' establishment, is incidental-type food.

Mayor Brown indicated that he concurs with Councilmember Giles' opinion that the proposed draft ordinance may exceed certain boundaries and may not be in line with the wishes of Mesa's citizens. Mayor Brown stated that his previous stated objectives include: 1) that restaurants would be smoke-free, and 2) modifications to the ordinance would be considered for bars.

Vice Mayor Gilbert expressed the opinion that whatever modifications are agreed to by the Council, strict enforcement should occur. Vice Mayor Gilbert stressed that he would support stringent enforcement of violations.

In response to a question from Mayor Brown, City Attorney Neal Beets advised that the draft proposal recommends that signage, declaring the establishments to be either smoking or nonsmoking, be conspicuously posted outside of the businesses. Mr. Beets added that during the proposed one-year phase-in period, establishments would post smoking signs and following that time, establishments which have not met the requirements for variances would post non-smoking signs.

Mayor Brown recommended that input be solicited during the next week from every available source and that the Council continue discussions relative to this issue at the Friday, December 13, 1996 Council Study Session. Mayor Brown also recommended that concerned individuals

and groups be encouraged to submit written input to the Council for their review and consideration.

In response to a question from Councilmember Payne, Mr. Beets advised that in accordance with Proposition 200, all buildings and vehicles owned and/or leased by the City, must be smoke-free except for designated smoking areas which allow separate indoor and outdoor smoking areas. Mr. Beets commented that the intent of the ordinance was probably not to encourage large groups of people to congregate in designated smoking areas and added that the Council may decide to modify this requirement and/or address the amphitheatre and the stadium separately.

Councilmember Payne expressed the opinion that an inequity exists in allowing designated smoking areas at the amphitheatre while requiring 'mom and pop' businesses to prove that hardships exist in order to receive an exemption.

Mr. Beets clarified that 'mom and pop' establishments, with occupancy levels of 50 people or less, would not be required to apply for a hardship variance based on the current proposal. Mr. Beets added that the Council may decide to increase the occupancy levels to 100 patrons or less.

Mayor Brown expressed appreciation to the Council and staff for their input.

3. Acknowledge receipt of minutes of meetings of various board and committees.

- a. Housing and Human Services Advisory Board meeting held November 25, 1996.
- b. Museum and Cultural Advisory Board meeting held November 26, 1996.

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

Carried unanimously.

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

Mayor Brown announced that Mr. Jim Bourey has been appointed the new Executive Director of the Maricopa Association of Governments (MAG).

5. Scheduling of meetings and general information.

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

Wednesday, December 11, 1996, 7:00 p.m. - Transportation Committee Meeting, Robson Elementary School, Public Hearing on the Gilbert Road widening project.

(Mr. Luster advised that the December 12, 1996 tour with the Legislators has been canceled.)

Friday, December 13, 1996, 7:30 a.m. - Council Study Session

Monday, December 16, 1996, 5:45 p.m. - Regular Council Meeting

(Mr. Luster advised that the Thursday, December 19, 1996 General Development Committee meeting time has been changed from 7:30 a.m. to 7:00 a.m.)

City Clerk Barbara Jones informed the Council that in order meet the legal deadlines for holding a March 1997 Special Election on the smoking initiative, a resolution calling the election will be placed on the agenda of the December 16, 1996 Regular Council Meeting agenda for consideration.

In response to a question from Councilmember Giles, Ms. Jones advised that the Council may also decide to hold the election on May 20, 1997.

Ms. Jones informed the Council that results of Initiative I96-4, Citizens to Repeal Proposition 200, will be available on Monday, December 9, 1996.

6. Prescheduled public opinion appearances (Maximum of three speakers for five minutes per speaker).

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

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

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

8. Adjournment.

The meeting adjourned without objection at 8:36 a.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARAJONES, 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 6th day of December 1996. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 20th day of December 1996

BARBARA JONES, CITY CLERK