

GENERAL DEVELOPMENT COMMITTEE MINUTES

October 21, 2005

The General Development Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on October 21, 2005 at 8:05 a.m.

COMMITTEE PRESENT

Rex Griswold, Chairman
Kyle Jones
Mike Whalen

COUNCIL PRESENT

None

STAFF PRESENT

Debbie Spinner
Paul Wenbert

Chairman Griswold excused Committeemember Whalen from the beginning of the meeting. He arrived at 8:09 a.m.

1. Discuss and consider possible changes to Desert Uplands lighting standards.

Traffic Engineer Alan Sanderson reviewed the information provided in the Council Report. He noted that the City has adopted the national standard published by the National Illuminating Society and the American National Standards Institute. Mr. Sanderson reported that research indicates that lighting reduces the number of accidents and that 25 percent of travel occurs at night, but the nighttime accident rate is three times higher than the daylight rate. He added that nighttime accidents often involve a single vehicle running off the road or hitting a fixed object, a pedestrian, a parked vehicle or an animal.

Mr. Sanderson stated that the present Desert Uplands ordinance requires lights on local streets to be installed at intersections, cul-de-sacs longer than 200 feet and spaced every 400 feet on long, straight sections. He added that the ordinance also calls for 25-foot mounting heights and 70-watt lamps.

In response to a question from Chairman Griswold, Development Services Manager Jack Friedline advised that the lighting levels are lower on collector streets in Ridgecrest and Eagle Crest and that Las Sendas Mountain Road was utilized as a benchmark.

Mr. Sanderson advised that staff does not have data on area accident rates. He explained that the Desert Uplands ordinance permits minor, 34-foot wide collector streets to have lower street lighting requirements. Mr. Sanderson noted that although some citizens have expressed a preference for no street lighting in certain sections of the Desert Uplands, staff recommends that the ordinance remain as is in order to ensure the safety of the traveling public and emergency responders.

Responding to questions from Chairman Griswold, Mr. Sanderson noted that the Council Report includes a map that identifies the City of Scottsdale's lighting standards by area. He also advised that he had no information regarding the impact of allowing "no street lights" on property values or statistical information on safety.

City Attorney Debbie Spinner advised that staff did not have Scottsdale's accident statistics, but stated that she could provide information regarding the law as it applies to streetlights.

Chairman Griswold said that Scottsdale's "no street lights" area has high-end homes that border a national forest, and that the residents prefer not to have street lights. He added that streetlights presently exist on Hawes Road and McDowell Road, and that Usery Road has no lights because of its location near the national forest. Chairman Griswold advised that the area under consideration is near the national forest and consists of one to five-acre lots with a less intense use. He noted that the issue before the City of Mesa is whether a small area will be permitted to exist as a microcosm without streetlights. Chairman Griswold stated that he did not want to open "Pandora's Box," but he expressed the opinion that special zoning would be appropriate in this area. He also noted that special zoning presently exists in the "Groves" area of the City of Mesa.

Mr. Sanderson identified the area proposed for special zoning, and he noted that a substantial portion is still in the County.

In response to questions from Committeemember Whalen, Ms. Spinner stated that she would provide general information regarding the laws that address streetlights, but that it would be more appropriate to discuss the specific issue during an Executive Session. She explained that the City has a legal obligation to provide reasonably safe public roadways as defined by traffic engineers and the existing national standards. Ms. Spinner said that deviation from the City's adopted street lighting standards increases the City's potential liability.

Committeemember Whalen suggested that staff obtain additional information from the City of Scottsdale prior to moving the issue forward to the Council.

Chairman Griswold noted that a timeline exists with respect to the development.

Responding to questions from Committeemember Jones, Mr. Sanderson advised that there is a "stop control" at McDowell and Usery Roads and that a signal is planned in the future. He added that the area is projected to have a low population density. Mr. Sanderson stated that McDowell is the major street in the area and that Hawes functions as a collector street.

Mr. Friedline advised that staff considers McDowell Road to be an arterial street with the applicable lighting standards.

Chairman Griswold stated that a typical "dark sky" ordinance includes standard lighting on arterial streets, and he noted that Hawes Road presently has streetlights. Chairman Griswold advised that the Scottsdale model includes a reference to the fact that the City assumes the additional liability.

Ms. Spinner noted that although information from Scottsdale or Tucson indicates that no costs were incurred as a result of assuming the additional liability, this does not reflect the fact that a substantial lawsuit could be filed in the future.

Chairman Griswold said that he does not intend to place the City at risk, but he would like to create a better environment and enable the City to be competitive in the housing market.

Committeemember Whalen suggested that staff conduct additional research on the issue and provide the information to the Council at an Executive Session.

It was moved by Committeemember Whalen, seconded by Chairman Griswold, that the item be moved forward for consideration by the full Council in an Executive Session.

Carried unanimously.

Chairman Griswold requested that this item be brought forward within the next thirty days.

Chairman Griswold invited a member of the audience, Jerry Friedman, to come forward and address the Committee.

Mr. Friedman stated that he lives on North Hawes Road and has opposed streetlights in the past. He noted that the wattage recently installed on North Hawes Road is thirty percent lower than the standard lighting installed on a collector street. He reported that several recent traffic accidents on Hawes Road occurred during daylight hours. Mr. Friedman requested data on nighttime accidents in the proposed "dark skies" area. He added that the Planning and Zoning Board unanimously approved his request to delay implementation of lighting requirements on Range Rider until such time as a decision is made by the General Development Committee or the City Council on the issue, and he recommended that lighting be required only at the entryways to the four, gated areas located off of Range Rider Road.

Chairman Griswold thanked staff for the presentation.

2. Discuss and consider possible changes to the portable sign regulations.

Senior Planner Gordon Sheffield provided an update regarding regulations imposed by other communities. He reported that after Fountain Hills adopted an ordinance to allow portable signs, they reconsidered the issue and sunsetted the ordinance. He stated that Fountain Hills then adopted an ordinance that permits detached signs. Mr. Sheffield noted that regulations adopted by Fountain Hills also address the content of sign copy.

Mr. Sheffield advised that the Town of Gilbert allows A-frame signs for businesses of less than 10,000 square feet. He noted that most of their shopping areas are new and several of the shopping centers prohibit portable signs. Mr. Sheffield reported that the Town of Gilbert estimates that approximately 14 percent or 290 of their businesses are utilizing portable signs. He added that the Town of Gilbert does not charge a permit fee or require liability insurance, and that the Chamber of Commerce distributes the information on sign requirements. Mr. Sheffield said that if a Town of Gilbert Code Compliance Officer identifies a sign that is improperly placed, the business owner is provided information regarding the sign regulations. He added that markings are painted on the curbs to identify the proper locations for signs. He

reported that the penalty for improper placement of a sign is confiscation of the sign and the imposition of a \$50 storage fee. Mr. Sheffield added that if the business owner continues to violate the ordinance, the sign is confiscated and the business is prohibited from displaying a sign for two years.

Mr. Sheffield stated that any change to the City of Mesa's sign regulations to permit portable signs should stipulate that the signage is temporary, which ensures that no vested rights are granted in the event the City makes a future decision to rescind the regulation. He noted that the next step would be to determine the areas in which the temporary signs would be allowed. Mr. Sheffield also clarified that the current A-frame sign regulations do not apply to the entire downtown area. He explained that the regulations apply to a very limited section called the "pedestrian overlay," which extends from the Mesa Arts Center to Country Club between First Avenue and First Street. Mr. Sheffield noted that the proposed regulation addresses all areas located outside of the "pedestrian overlay" area. He said that the regulation would apply to individual business occupancies located within group Commercial-Office-Industrial (C-O-I) developments where the "good faith" efforts of the business owner to obtain signage from the development's owner or manager have been exhausted. He added that no square footage limitations would be included. Mr. Sheffield outlined elements of the proposal as follows:

- The occupancy does not currently have identification on a detached sign.
- No alternatives for the occupancy exist under the provisions of this chapter to have identification on a detached sign.
- The owner, manager or proprietor of the occupancy has made a good faith attempt to secure identification on a detached sign by seeking approval of the owner or manager of the group C-O-I development, or by exhausting all alternatives set forth in this chapter.
- The C-O-I development does not have an approved comprehensive sign plan.

Mr. Sheffield noted that the business proprietor would be asked to obtain written verification from the owner/manager of the development indicating their refusal to provide or allow signage. He advised that the Board of Adjustment has experience in this area, and that the current ordinance prohibits a business from having a detached sign if they have a non-confirming sign. Mr. Sheffield added that the Board of Adjustment has requested that a detached sign be allowed when a variance is granted.

In response to questions from Chairman Griswold, Mr. Sheffield explained that the regulation is written broadly and that staff would utilize common sense in enforcing the ordinance. He added that staff would attempt to contact the owner or manager when a tenant is unable to obtain a response.

Mr. Sheffield advised that allowing A-frame signs based on the distance that the business is located from the street could create a proliferation of portable signs in the community.

Deputy City Attorney Joe Padilla advised that exposing the City to portable signage beyond the downtown pedestrian overlay increases the liability risk to the City. He noted that the ordinance requires the business owner to secure liability insurance that is primary to the City's responsibility.

Chairman Griswold stated that the proposal is a temporary solution until the City develops a streamlined sign permitting system. He expressed the opinion that the problem would disappear as the older shopping areas evolve.

Discussion ensued relative to the fact that portable signs on the interior sidewalk of a strip shopping mall are prohibited if the signs are visible from the public sidewalk; and that portable signs in the interior of a strip shopping mall which are not visible from the sidewalk are permitted subject to approval by the owner of the shopping mall.

Chairman Griswold stated that his intention is to enable businesses to have legal signage, and he noted that the present situation is uncontrolled.

Mr. Sheffield noted that the business is required to provide proof of liability insurance in the amount of \$1 million, and that the City assumes the liability between \$1 million and \$2 million. He highlighted other requirements of the ordinance including the following:

- A City of Mesa permit sticker must be affixed to a visible location on the sign.
- One sign is allowed per business occupancy, which can be displayed only during business hours.
- The sign shall be set back at least three feet from the back of sidewalk or fifteen feet from the curb where no sidewalk exists.
- The sign is to be constructed of specific materials.
- No illumination, animation, moving parts, changeable text, illusion of motion, reflective materials or any attachments such as balloons, ribbons, streamers or pennants are permitted.
- All signs must be spaced twenty feet apart.

Chairman Griswold suggested that a procedure be instituted that enables sign companies to handle the application process.

Building Safety Director Terry Williams confirmed that a procedure could be developed that enables sign companies to apply for the permit on behalf of the business owner or the owner could personally apply for the permit.

Mr. Sheffield advised that the language in the existing sign regulations sufficiently addresses the penalties for violations. He noted that the regulations do not provide for an initial warning, but that officers routinely issue courtesy warnings.

Committeemember Jones suggested that the ordinance include a provision for a courtesy warning prior to a citation being issued for an illegal sign.

Acting Code Compliance Director Angela Duncan Escobedo confirmed that Code Compliance Officers routinely provide two notifications prior to issuing a citation.

Mr. Sheffield noted that the zoning change would require public hearings and consideration by the Planning and Zoning Board and the Downtown Development Committee.

Neighborhood Services Manager Lisha Garcia expressed concern that the ordinance would increase the workload for the Code Compliance Division, which is presently being asked to eliminate 3.5 positions.

Committeemember Whalen stated the opinion that the dubious nature of what the ordinance could accomplish should be weighed against the cost of enforcement. He also noted that although he supports the concept, he does not believe that the timing is appropriate in view of the City's financial situation.

Chairman Griswold expressed the opinion that stickers on the signs would facilitate easy enforcement. He also stated that the ordinance creates an opportunity for the majority of honest people to promote their businesses, and that the ordinance would require minimal enforcement.

Mr. Sheffield estimated that the proposed ordinance would enable the placement of 12 signs within each square mile of the City, which totals approximately 1,600 portable signs.

Chairman Griswold stated the opinion that approximately 1,600 illegal portable signs are presently being utilized in the City.

Ms. Escobedo advised that the Town of Gilbert indicated that their major problem was business owners who left the signs in place after business hours. She noted that enforcement of this type of violation would require employees to work during the evening hours.

Mr. Sheffield advised that staff recommends increasing the fee for the sign in order to address the additional cost for enforcement of the ordinance.

Chairman Griswold stated that he would like the full Council to consider the subject proposal, and reiterated that the presence of an official sticker on the sign would enable efficient enforcement of the ordinance.

Further discussion ensued relative to the fact that enforcement of the Sign Code is not a high priority for Code Compliance Officers who must address other issues such as residential weeds and trash, nuisance abatement, West Nile virus, and illegal dumping; and that the City presently employs 15 Code Compliance Officers while national standards indicate that a city the size of Mesa would typically employ 20 officers.

Chairman Griswold expressed appreciation for the efforts of Code Compliance Officers to eliminate "meth houses" in his district. He noted that Code Compliance Officers were able to cite the occupants of the houses for violations unrelated to drug charges.

It was moved by Chairman Griswold, seconded by Committeemember Jones, that the item be moved forward for consideration by the full Council with a recommendation for approval.

Committeemember Whalen stated that he would not support the motion because the City does not presently have the financial resources to enforce the ordinance.

Chairman Griswold called for the vote.

Upon tabulation of votes, it showed:

AYES – Griswold-Jones
NAYS – Whalen

Chairman Griswold declared the motion carried by a majority vote.

Chairman Griswold thanked staff for the presentation, and he complimented them for preparing a well-written ordinance.

3. Discuss and consider possible changes in regulations governing conversion of residential rental properties to condominiums.

Planning Director John Wesley advised that there is increased interest on the part of the development community in converting apartments buildings to condominiums. He stated that because the existing regulations require that each individual lot have frontage on a public street, developers must obtain a Planned Area Development (PAD) overlay for these types of projects, which requires approval by the Planning and Zoning Board and the City Council. He noted that these requirements add layers to the process and uncertainty to the project.

Mr. Wesley advised that staff recommends that the existing ordinance be amended to allow airspace condominiums without the requirement for a PAD overlay. He noted that property would remain under the ownership of one entity, which guarantees continued access to individual owners.

Committeemember Jones expressed support for simplifying the process.

Chairman Griswold noted that the conversion of residential apartment buildings addresses a community housing need.

It was moved by Committeemember Jones, seconded by Councilmember Whalen, that the item be moved forward for consideration by the full Council with a recommendation for approval.

Carried unanimously.

4. Adjournment.

Without objection, the General Development Committee meeting adjourned at 9:22 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the General Development Committee of the City of Mesa, Arizona, held on the 21st day of October 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK