

# COUNCIL MINUTES

August 3, 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 August 3, 1998 at 5 p.m.

## COUNCIL PRESENT

Mayor Wayne Brown  
Jim Davidson  
John Giles  
Keno Hawker  
Bill Jaffa  
Dennis Kavanaugh  
Pat Pomeroy

## COUNCIL ABSENT

None

## STAFF PRESENT

C.K. Luster  
Vince Anderson  
Anthony Araza  
Pauline Backer  
Wayne Balmer  
Cindy Barris  
Neal Beets  
Denise Bleyle  
Dan Brewer  
Matt Clausen  
Dennis Compton  
Mike Hutchinson  
Barbara Jones  
Harry Kent  
Karl Kolhoff  
Wayne Korinek  
Ron Krosting  
Karen Kurtz  
Dorinda Larsen  
Larry Lines  
Greg Marek  
Jeff Martin  
Patrick Murphy  
Keith Nath  
Terri Palmberg  
Ellen Pence  
Andrea Rasizer  
Tom Remes

## STAFF PRESENT (CONT.)

Ross Renner  
Becky Richardson  
Sharon Seekins  
Jenny Sheppard  
Dave Spaur  
Doug Tessendorf  
Ron Von Burg  
Mindy White  
Paul Wilson  
Christine Zielonka

## OTHERS PRESENT

Jerry Boyd  
Bill Brando  
Luule Brando  
Robert Brinton  
Art Case  
M. Paul Fischer  
Wayne Hatch  
Barry Kirshner  
Phil Lowry  
Thomas Mousel  
Louis Stradling  
Tom Verploegen  
Rick Weddle  
Willie Wong  
Others

### 1. Review items on the agenda for the August 3, 1998 Regular Council Meeting.

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

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

3. Conduct a public hearing for the following proposed annexation:

- a. A98-7 East of Ellsworth Road and northwest of the Signal Butte Floodway (20.3+/- acres).

In response to questions from Councilmember Davidson, Community Development Manager Wayne Balmer outlined anticipated development within the area, noting that of the total 127 homes planned for Phases A and B, 37 homes are proposed for the 20.3+/- acres (Phase B). Mr. Balmer indicated that the public hearing is scheduled for the Regular Council Meeting this date but that voting on the matter will be scheduled for a future time.

Councilmember Davidson requested information pertaining to the total acreage of the 90 lots in Phase A.

- 4. Consider the following liquor license applications.

- \*d. JOSEPH M. SERENO, AGENT

New Beer and Wine Store License for Chevron, 1155 South Higley Road. This is a new business; no previous liquor licenses at this location.

In response to a question from Councilmember Davidson, Tax and Licensing Administrator Larry Lines advised that a delicatessen is proposed in conjunction with the Chevron.

- 5. Consider the following contracts.

- \*c. Dreamland Villa Water Line Relocation.

This project involves replacing existing water lines with new water lines in two areas bounded by University to Colby Street, Higley to 54th Street, and 56th Street to 58th Street.

Councilmember Hawker 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 stated that this item will be removed from the consent agenda.

- \*d. 36-inch reclaimed water line along the Red Mountain Freeway - McKellips Road to Country Club Drive.

This project involves the installation of a 36-inch reclaimed water line along the Red Mountain Freeway.

Councilmember Davidson questioned the 20-percent variance between the low bid and the engineering estimate for the project and the 30-percent variance between the low and high bids. Public Works Manager Harry Kent expressed the opinion that the low bid is appropriate and that the firm is reputable.

- f. Stapley Junior High School Pool.

This project involves the construction of a new pool facility at an existing junior high school.

M. Paul Fischer, 40 North Center Street, Suite 100, attorney representing MTV General Contractors, outlined a "letter of protest" relative to the recommended award of Project No. 98-29. Mr. Fischer stated the opinion

that MTV General Contractors was the low bidder for the project and qualified to construct the facility utilizing their B-1 General Commercial license in combination with a preapproved subcontractor as required by the City. Mr. Fischer advised that MTV General Contractors currently possesses an A-General Engineering license, although they did not hold such a license at the time of bidding.

Mr. Fischer reported that if the City requires at the time of bidding both an A-General Engineering license and B-1 General Commercial license as recommended by the Arizona Registrar of Contractors, only one firm remains qualified. Mr. Fischer recommended that the project be rebid. Mr. Fischer noted that MTV General Contractors has previously performed extensive work for the City and has presently submitted a bid that is \$80,000 less than that of Low Mountain Construction, Inc.

In response to a question from Mayor Brown, City Attorney Neal Beets expressed the opinion that the bid from MTV General Contractors is not appropriate. Mr. Beets stated that the City: a) provided to all bidders Special Provision No. 56, which requires that anyone submitting a bid have in place, at the time of bidding, licensing as recommended by the Registrar of Contractors (A-General Engineering and B-1 General Commercial) and b) included above the signature line a sentence stating that bids submitted by those without appropriate licensing will be rejected. Mr. Beets commented that both licenses were required at the time of bidding, and on that basis, the contract should be awarded to Low Mountain Construction, Inc.

Mayor Brown questioned the procedure to be followed in the event only one legal bid is submitted for a contract. Mr. Kent stated that if the bid is deemed reasonable, staff will recommend an award.

In response to further questions from Mayor Brown, Mr. Kent stated that Project No. 98-29 is currently scheduled for completion by April 15, 1999. Mr. Kent indicated that rebidding the project would require approximately two additional months and because completion could be delayed until mid-summer, Community Services Manager Wayne Korinek may prefer a year's postponement. Mr. Kent stated that he is unsure if the schedule could be accelerated.

Thomas Mousel, President of MTV General Contractors, expressed the opinion that should the contract be rebid, a completion date of April 15 would remain feasible.

Mr. Fischer commented that Special Provision No. 56 includes specific licenses and indicates that failure to comply "may" result rather than "shall" result in the rejection of bids. Mr. Beets noted that the sentence before the signature line states that bids without appropriate licensing will be rejected.

In response to a question from Councilmember Davidson, Mr. Mousel reported that the cost to obtain the A-General Engineering license was approximately \$2,000. Mr. Mousel questioned the requirement for an A-General Engineering license if the City mandates the utilization of one of two prequalified pool companies.

Councilmember Hawker asked if MTV General Contractors could have submitted a proposal for prequalification to construct the pool. Mr. Kent indicated that it is unlikely the City would have prequalified MTV General Contractors given their limited experience in this area of expertise.

Councilmember Hawker outlined options available to those who do not possess a license required by bid specifications, including: a) obtaining the required license, b) not bidding the project, c) subcontracting with an individual who possesses the license, or d) attempting to have the bid specifications revised. Councilmember Hawker stated that he does not support amending the recommendation of staff.

Art Case, Vice President, Low Mountain Construction, Inc., expressed the opinion that it would be unfair to reject all bids due to the irregularity of one bid. Mr. Case said that his firm has constructed several municipal swimming pools over the last four years, all of which have required an A-General Engineering license. Mr.

Case commented that additional funds would be required to rebid the project while retaining a completion date of April 15, 1999. Mr. Case concurred with the comments expressed by City Attorney Neal Beets.

In response to a question from Councilmember Jaffa, Mr. Beets stated that the City cannot generate bid specifications contrary to State law, but generally may incorporate requirements that are more restrictive than State law. Mr. Beets said that it is appropriate to utilize the term "shall" within bid specifications.

Councilmember Jaffa indicated concern relative to rebidding the project, noting the precedent that could be established and the possible message conveyed to the public. Mr. Jaffa advised that the bidding process utilized for this project has previously been used by the City.

Mayor Brown commented concerning the low bidder's understanding that the utilization of subcontractors prequalified by the City fulfilled the requirement for an A-General Engineering license.

In response to a question from Mayor Brown, Council indicated a general consensus not to rebid the project.

6. Introduction of the following ordinances and setting August 31, 1998 as the date for the public hearing on these ordinances.
  - \*h. Z98-52 The southeast corner of Signal Butte and Adobe. Rezone from R1-43 to R1-9 PAD (53.8 acres). This case involves development of a single-residence subdivision with approximately 153 lots.

Councilmember Jaffa 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 stated that this item will be removed from the consent agenda.

(Councilmember Kavanaugh noted concern relative to the Las Sendas zoning cases, Items 6p through 6z. Mayor Brown stated that he will allow an opportunity for comments following the reading of the consent agenda.)

7. Consider the following resolutions:
  - \*c. Implementing measures in the MAG 1998 Serious Area Particulate Plan for PM-10 for the Maricopa County area.

In response to a question from Councilmember Pomeroy, Environmental Coordinator Christine Zielonka explained that the proposed resolution reflects local control efforts to further reduce particulate pollution levels and includes the recently adopted ordinance relating to fugitive dust.

- \*d. Designating a future alignment for Pecos Road from Power Road to Ellsworth Road.

Councilmember Jaffa stated that following the reading of the consent agenda, he would like an opportunity to commend staff for their efforts relative to this item.

- \*f. Declaring that at this time the City will not sell electric generation service in the service territory of another electricity supplier.

Councilmember Davidson 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.

In response to a question from Councilmember Jaffa, Mr. Beets reported that additional legislation pertaining to deregulation may be forthcoming, but said that it is the opinion of staff that the proposed resolution is appropriate at this time.

Mayor Brown stated that this item will be removed from the consent agenda.

2. Hear a presentation from Don Strauch and Robert Brinton concerning a visit to Burnaby, British Columbia, Canada, for the purpose of exploring a Sister City relationship.

Robert Brinton, Executive Director of the Mesa Convention and Visitors Bureau, briefly provided background information concerning the Sister City Association of Mesa. Mr. Brinton advised that through the efforts of Phil Lowry on behalf of the Visitors Bureau, an interest has been expressed by the City of Burnaby, British Columbia, in establishing a Sister City relationship.

Mr. Lowry advised that Mayor Douglas Drummond of the City of Burnaby has extended an invitation to the City of Mesa to visit on September 10, 1998 for the purposes of exploring a Sister City partnership between the two communities. Mr. Lowry outlined potential topics for discussion.

Mayor Brown expressed appreciation to Mr. Brinton and Mr. Lowry for their efforts and stated that Council anticipates the visit.

3. Review and consider DR98-006TC - Design review of the former Bank One Building, 66 West Main Street (Site 21).

Redevelopment Director Greg Marek utilized overhead displays and stated that staff and the Downtown Development Committee (DDC) recommend approval of the proposed elevation plans for the former Bank One building, subject to 9 stipulations.

In response to a question from Councilmember Davidson, Mr. Marek clarified provisions/time frames relating to Stipulation 8, which states that if a restaurant is located on the ground floor of the building, the glass line will be further recessed to allow for additional outdoor seating.

Barry Kirshner, Vice President of Development for The Voit Companies, 8180 North Hayden Road, Suite D-107, Scottsdale, stated that Voit has begun efforts to secure a first-floor tenant, noting the importance of a restaurant to the success of the project.

Councilmember Hawker spoke concerning the prime location of the building and encouraged the utilization of high-quality materials for the first floor and the remainder of the building. Councilmember Hawker indicated a preference that restaurant/retail operations be required for the first floor but recognized that the existing development agreement includes a provision that the applicant will attempt for at least six months to lease to a restaurant. Councilmember Hawker urged coordination with the Main Street streetscape project. Councilmember Hawker added that had he previously been given an opportunity, he would not have voted in favor of the amenities provided to the developer.

Councilmember Jaffa noted concerns relative to the finishing materials and first-floor occupancy. Councilmember Jaffa expressed the opinion that the structure should be a Class-A facility.

It was moved by Councilmember Jaffa, seconded by Councilmember Hawker, that DR98-006TC be referred back to the City Council for final approval of the exterior design.

Councilmember Davidson commented that final approval of the exterior design would first be considered by the DDC.

Upon a tabulation of votes, it showed:

Ayes - Davidson-Giles-Hawker-Jaffa-Kavanaugh

Nays - Brown-Pomeroy

Mayor Brown declared the motion carried by majority vote.

Mayor Brown requested that Council vote on the approval of the project.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that DR98-006TC be approved, subject to 9 stipulations, as recommended by staff.

Upon a tabulation of votes, it showed:

Ayes - Brown-Davidson-Giles-Jaffa-Kavanaugh-Pomeroy

Nays - Hawker

Mayor Brown declared the motion carried by majority vote.

4. Review and consider DR98-007TC - Design review of the public parking garage at the southeast corner of Pepper Place and Macdonald Street (Site 21).

Mr. Marek outlined the proposed development plans for the parking garage to be constructed as part of the redevelopment of the former Bank One building. Mr. Marek stated that staff recommends approval of the plans, subject to 18 stipulations. Mr. Marek advised that 250 spaces are to be reserved for Voit tenants but would be available for public use outside business hours. Mr. Marek noted efforts to ensure compatibility of the structure.

Mayor Brown expressed the opinion that Council would favor an opportunity for input similar to that relating to Item 3 (above).

In response to a question from Councilmember Kavanaugh, Public Works Manager Harry Kent said that a firm from California which works with a local architect has been selected and is working with the Voit architect to ensure compatibility of the parking garage with the former Bank One building.

Councilmember Jaffa stated that it is his understanding that it is not feasible to construct more than one level below grade but that another level above grade could possibly be constructed in the future, allowing the addition of retail or commercial activity.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that DR98-007TC be approved, subject to 18 stipulations, as recommended by staff.

Councilmember Hawker noted that the parking garage was approved by the prior Council but indicated that he does not support the proposal with the terms and conditions provided.

Upon a tabulation of votes, it showed:

Ayes - Brown-Davidson-Giles-Jaffa-Pomeroy  
Nays - Hawker-Kavanaugh

Mayor Brown declared the motion carried by majority vote.

5. Consider a report on the widening of the Mesa Drive-University Drive intersection and the streets leading to and from the intersection.

Supervising Engineer Ross Renner referred to schematics and provided an overview of the preferred alignment for improving the intersection of Mesa Drive-University Drive. Mr. Renner indicated that the project extends along University Drive from Center to Pioneer Street and along Mesa Drive from 1st Street to 6th Street. Mr. Renner stated that the intersection will be improved to accommodate projected traffic volume associated with the proposed Mesa Verde project and that existing roadways will be widened to provide six lanes (three in each direction) with a painted median. Mr. Renner identified the location of additional left-/right-turn lanes and bus turnouts/pullouts and discussed the potential impact on adjacent properties.

Mr. Renner estimated the cost of the project at \$5.4 million. Mr. Renner reviewed anticipated time frames for the proposal, noting that design is scheduled to begin immediately, with bidding anticipated for April 1999 and construction to begin in July 1999 and end in March 2000. Mr. Renner stated that the project is designed to coincide with the opening of Mesa Verde.

Mayor Brown spoke concerning the importance of the project and the potential impact on surrounding individuals and businesses. Mayor Brown suggested that this issue be discussed in greater detail at a future Study Session.

City Manager Charles Luster noted the necessity for action in order to complete the improvements in conjunction with the opening of Mesa Verde and recommended that a special meeting be scheduled.

Mayor Brown suggested that a meeting be held on Thursday, August 6, 1998.

In response to a question from Councilmember Jaffa, Mr. Kent said that staff would not recommend the proposed time frame for the street improvements if the Mesa Verde project was not involved.

Mayor Brown stated that further discussion of this item will be continued to a Study Session on Thursday, August 6, at 7:30 a.m.

6. Consider the donation of surplus fire pumpers to Guaymas, Sonora, Mexico, and Beaver Valley Fire District.

It was moved by Councilmember Hawker, seconded by Councilmember Jaffa, that the donation of surplus fire pumpers to Guaymas, Sonora, Mexico, and the Beaver Valley Fire District be approved.

Carried unanimously.

7. Appointments to boards and committees.

Mayor Brown recommended the following appointments to boards and committees:

DISTRICT COMMISSION

Teresa Brice-Heames  
Lynda Bailey  
Pat Langdon  
Mary Jo Whalen  
Wilford Andersen

GREATER PHOENIX ECONOMIC COUNCIL

Carolyn Baecker - reappointment  
Mayor Brown - reappointment

It was moved by Vice Mayor Giles, seconded by Councilmember Davidson, that the Council concur with the Mayor's recommendations and the appointments be confirmed.

Councilmember Jaffa stated that he will vote in favor of the motion but expressed considerable concern relative to the appointment of spouses to various boards and commissions. Councilmember Jaffa encouraged efforts to expand representation.

Mayor Brown stated appreciation for the willingness of citizens to serve on the City's boards and commissions.

Carried unanimously.

8. Acknowledge receipt of minutes of various boards and committees.

- a. Crime Prevention Advisory Board meeting held July 15, 1998.
- b. Traffic Safety Committee meeting held July 21, 1998.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, to acknowledge the receipt of the minutes of the above-listed meetings.

Carried unanimously.

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

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

10. Scheduling of meetings and general information.

Mr. Luster stated that the meeting schedule is as follows:

Thursday, August 6, 1998, 7:30 a.m. - Study Session  
Monday, August 17, 1998, 5:45 p.m. - Special Council Meeting

Mayor Brown recognized former Mayor Willie Wong, former Vice Mayor Jerry Boyd, and former Councilmember Louis Stradling. Mayor Brown thanked each for their attendance at the meeting.

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

- a. Hear from Louis Stradling regarding fluoridation.

This item was continued to the August 6, 1998 Study Session.

12. Adjournment.

Without objection, the Study Session adjourned at 6:03 p.m.

\_\_\_\_\_  
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 3rd day of August 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