

# COUNCIL MINUTES

March 18, 1999

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 March 18, 1999 at 8:00 a.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## STAFF PRESENT

Kevin Adam  
Wayne Balmer  
Neal Beets  
Denise Bleyle  
Jamie Brennen  
Linda Crocker  
Jack Friedline  
Mike Hutchinson  
Barbara Jones  
Ron Krosting  
Greg Marek  
Jeff Martin  
Keith Nath

## STAFF PRESENT

Ellen Pence  
Andrea Rasizer  
Tom Remes  
Becky Richardson  
Jenny Sheppard  
Mindy White

## OTHERS PRESENT

Robbie Sherwood  
Ray Stern  
Others

### 1. Further discussion and consideration concerning the adopted Ethics Code.

Councilmember Hawker complimented City Attorney Neal Beets on written responses he prepared in response to Councilmember Hawker's request for clarification on a variety of ethics-related questions.

Councilmember Hawker briefly outlined the context of the questions that had been posed for the benefit of the members of the audience and citizens viewing the televised Study Session and stated the opinion that additional study should be given to the issue of the "appearance of favoritism."

In response to a question from Councilmember Hawker, Councilmember Kavanaugh, who serves as Chairman of the Mayor's Ad Hoc Committee on Ethics, commented on the Committee's recommendation that a pilot program be implemented and added that the Committee's intention was to solicit input and questions such as Councilmember Hawker's inquiries, in an effort to enhance and improve the overall program. Councilmember Kavanaugh also commended Mr. Beets on his responses to a variety of questions and noted that once an advisory board is in place, it will be the Board's responsibility to review the various questions and provide recommendations on the entire ethics process.

Councilmember Kavanaugh expressed the opinion that the Council's focus should be on whether the person or persons they are receiving the benefit from has or may have business before the City.

In response to a question posed by Councilmember Hawker, Councilmember Kavanaugh advised that the Committee had determined that token gifts that are usually presented to the Council on behalf of civic and/or sister-city type organizations (coffee mugs, pens, and other items of this nature) did not have to be reported

but encouraged the members of the Council to report any item which they feel should be made part of the public record.

Discussion ensued relative to the fact that the pilot program is voluntary and will last approximately one year, the importance of obtaining input and recommendations on improvements to the process, the possibility of extending the 48-hour reporting time frame following receipt of the items if the Council so desires, comments from Councilmember Jaffa that certain functions of conducting business, such as breakfast meetings, do not imply favoritism and should not have to be reported, a recommendation from Mayor Brown that the Council schedule meetings at the Council Chambers rather than attend breakfasts and/or luncheons to discuss City business, and comments from Councilmembers Davidson and Pomeroy relative to the benefit of meeting with various civic leaders and/or citizen groups on a more social level rather than conducting formal meetings.

Vice Mayor Giles commended the Committee for the work that has been accomplished on the development of an ethics code of conduct and stressed the importance of addressing any points within the code that may impede the Councilmembers' ability to carry out the responsibilities of their positions. Vice Mayor Giles emphasized that the Council should note their various experiences during the program's pilot year and be willing to recommend revisions at the end of the testing time.

City Attorney Neal Beets commented that staff receives requests from citizen advisory boards for information on the proposed ethics code and discussed staff's intention to meet with the various advisory boards and provide copies of the code in order to provide a learning opportunity and solicit the members' input.

In response to a question from Councilmember Hawker relative to whether the Ethics Advisory Board should be enacted to assist in the process, Mr. Beets stated the opinion that in the interim pilot program period, the Council may consider directing the members of the Ad Hoc Committee to serve as the Advisory Board on a temporary basis.

Mayor Brown thanked Councilmember Kavanaugh and the members of the Ethics Committee for their efforts to develop the code.

2. Hear an update on legislative issues.

Assistant to the City Manager Jeff Martin and Government Relations Assistant Kevin Adam addressed the Council relative to this agenda item. Mr. Martin informed the Council that he and Mr. Adam met with the Speaker of the House Jeff Groskost regarding proposed cuts to State-shared revenues and expressed concern regarding reductions in the City's share of these revenues. Mr. Martin reported that when the State raised taxes in 1993 to balance the budget, the City's revenue share decreased to 12.8% for four years. Mr. Martin added that the City's share was increased from 15% to 15.8% in 1997 in order to hold cities harmless from approved State tax cuts. Mr. Martin informed the Council that the Legislature is willing to continue the 15.8% for one more year and added that following this period of time, the amount will decrease to 15%. Mr. Martin noted that the proposed decrease will result in a \$2 million fiscal impact on the City of Mesa.

Discussion ensued relative to the fact that a number of legislators support the City's stand on this issue, the fact that two years ago the Legislature committed to hold the cities harmless and the fact that although the hold harmless provision was signed by Jeff Groskost, he is now renegeing on that agreement, Mayor Brown's comment that nine months ago Governor Hull confirmed her intention to hold the line on city shared revenues, and the importance of phasing-in any proposed decrease in order to limit the negative effects on the cities.

Mr. Martin also discussed the Vehicle License Tax (VLT) reduction program and informed the Council that it appears that most of the issues that would impact the City's share of the VLT revenues will not be approved.

Mr. Martin stated that progress is being made with the group sponsoring the citizens' initiative and said that he expressed appreciation to Marilyn Jarrett for listening to the City's concerns regarding this important issue.

Mr. Adam briefly updated the Council on the issue of electric competition and stated that the legislation is proceeding through the process and has passed in the House of Representatives. Mr. Adam advised that language has been added which would establish an effective date of January 1, 2001 and stated the opinion that the proposed time frame would provide the City with additional planning time and also enable the City to bypass incremental stages of competition and embark upon full competition.

Councilmember Jaffa commented that the Council Report on this legislation states that the Mesa City Council is on record in support of legislation that would enable Mesa to enter electric competition. Councilmember Jaffa stated that he serves as Chairman of the Utility Committee and added that he and Committeemember Hawker met with representatives of the Utility Department and Jeff Martin regarding this issue. Councilmember Jaffa stated that although he requested a letter from Utilities Manager Dave Plumb stating that the potential risk of loss of revenue to the City as a result of entering into competition would be minimal, he has not as yet received such documentation. Councilmember Jaffa also commented that it was his understanding that City staff was going to analyze the pros and cons of selling the City's electric utility and stressed the importance of analyzing all available options prior to rendering a decision on this matter.

Mayor Brown noted that discussion occurred regarding scheduling an additional Utility Committee meeting to address the issue of the possible sale of the utility and added that staff had acknowledged Councilmember Jaffa's concerns and indicated that they would be addressed.

Assistant City Manager Mike Hutchinson reported that Utilities Manager Dave Plumb is currently addressing this issue.

Mr. Adam also discussed Local Planning Authority Preemption and noted that a bill has passed the Senate that would enable a property owner to sue a local government if that government has initiated action that results in the property owner's property value being reduced by 20%. Mr. Adam added that the legislation would also preclude a city from designating private property as open space, recreation, or agriculture without the owner's permission. Mr. Adam highlighted similar legislation which would prohibit a city from rezoning property without the owner's permission if the change would restrict the use of the property or decrease the value of the land. Mr. Adam added that House Bill 2429 would amend the State incorporation laws enabling communities to incorporate without the approval of nearby cities and stated that passage of this bill would have a negative impact on the efforts to prevent encroachment at Williams Gateway Airport.

Councilmember Kavanaugh stated the opinion that the preemption legislation appears to be a direct contradiction to what Mesa voters have indicated they want regarding planning and zoning issues and expressed concern regarding the proposed legislation.

Mr. Martin briefly discussed photo radar legislation and reported that neither of the two proposed bills were heard in Committee and that both are essentially dead at this time.

Mr. Martin advised that the Y2K legislation has been amended to remove all governmental agencies. In response to a question from Councilmember Davidson, Mr. Hutchinson advised that staff will update the Council on the City's Y2K status at a future meeting.

Mr. Martin also commented on State Infrastructure Bank (SIB) expansion and reported that the legislation has passed by a vote of 45 to 7 with 8 not voting. Mr. Martin stressed the importance of adequate SIB funding and said that the bill is currently moving through the process.

Mr. Adam outlined transportation planning legislation and stated that the bill, which would replace the Maricopa Association of Governments (MAG) highway planning responsibilities with an Arizona Department of Transportation (ADOT) Urban Planning Division, has passed the House and is awaiting committee hearings in the Senate. Mr. Adam stressed the importance of opposing this legislation in order to prevent transportation planning from being taken away from municipalities and thereby jeopardizing future Federal transportation revenues.

Mr. Adam stated that legislation on group homes, which is supported by the City, has passed the House and is awaiting Committee hearings in the Senate.

Mr. Martin noted that Stadium District legislation is proceeding through the process and advised that effort was initiated to ensure that the legislation correctly clarified various revisions in the Stadium District Law. Mr. Martin commented on theme park legislation and noted that the City has proposed an amendment to House Bill 2577 which would grandfather the proposed Mesa Verde development. Mr. Martin briefly discussed the Design Build Pilot Project and noted that the stadium project will be design build. Mr. Martin added that City staff is working with Senate members and staff to add an amendment to ensure the eligibility of Mesa to participate in the pilot program.

Mr. Adam commented on Fireworks legislation and said that two bills have been introduced that would legalize fireworks and preempt local authority to regulate their use. Mr. Martin advised that the bill has passed the House, is awaiting a Committee hearing in the Senate and said that the City continues to oppose this legislation.

Mr. Adam also discussed Billboard legislation and noted that House Bill 2671 preempts local planning authority by enabling nonconforming billboards to remain in place by authorizing their continued repair and alterations. Mr. Adam stated that the City also continues to oppose this legislation.

Mayor Brown thanked Mr. Martin and Mr. Adam for their presentation.

3. Discuss and consider a resolution urging Congressional support for RPTA's funding request for light rail and bus improvements – Resolution No. 7340.

It was moved by Councilmember Jaffa, seconded by Councilmember Kavanaugh, that Resolution No. 7340 be adopted.

Mayor Brown commented that Senator Kyle is currently campaigning in the City of Mesa and urged any members of the Council who are considering supporting Senator Kyle and/or receive requests to support Senator Kyle, to solicit his input on this resolution.

Carried unanimously.

4. Discuss and consider a consultant for the Downtown Concept Plan.

In response to a question from Mayor Brown, Councilmember Davidson, who serves as Chairman of the General Development Committee, advised that the Committee has reviewed this issue and on a vote of 2-1, has recommended that the Urban Design Studio be selected as the consultant. Redevelopment Director Greg Marek requested input from the Council regarding this agenda item.

Mayor Brown requested that Councilmember Davidson, as Chairman of the General Development Committee, provide the Council with both pro and con arguments relative to the proposed selection.

Councilmember Davidson stated the opinion that either BRW or the Urban Design Studio are suitable for this project but added that he voted in support of BRW based on the firm's national focus. Councilmember Davidson added the opinion that the City of Mesa would benefit from BRW's broad expertise and perspective. Councilmember Davidson added the opinion that the Urban Design Studio will merely expand the Connections Report and will not take the City to the 'next level' of development.

Councilmember Kavanaugh commented that a review committee was formed to narrow the list of potential consultants and said that the committee selected both BRW and Urban Design Studio as the two highest-ranked consulting firms. Councilmember Kavanaugh advised that he voted in favor of the Urban Design Studio and said that the entire work focus of this firm has been on downtown redevelopment. Councilmember Kavanaugh noted that the Urban Design Studio has an office in Phoenix and has provided assistance to numerous Arizona communities in the past. Councilmember Kavanaugh also pointed out that the consulting costs for the Urban Design Studio, although not a deciding factor, is considerably less than that of BRW.

Councilmember Hawker indicated that he was not impressed with BRW's presentation and noted that the City is currently following a number of projects outlined in the Connections Report, such as the narrowing of Main Street and landscaping. Councilmember Hawker expressed the opinion that the services of the Urban Design Studio should be engaged to lead the City into the next phase of their redevelopment efforts. Councilmember Hawker stressed the importance of soliciting input from the consultant relative to incorporating City plans such as the arts and entertainment center into the overall development plan for the downtown area.

Mayor Brown stated the opinion that the Connections Report has been a worthwhile investment for the City and added that although he was initially opposed to the narrowing of Main Street, he is now of the opinion that this action will prove beneficial for the downtown area. Mayor Brown stressed the importance of ensuring that the arts and recreational facility ties in with the rest of the Town Center area and said that although he is not inclined to move in a totally different direction, he does support the idea of considering new concepts for this major project.

Councilmember Davidson indicated concern that the Urban Design Studio will utilize the Connections Report and add the arts and entertainment center as a focal point rather than presenting a totally new view of how the downtown should be developed. Councilmember Davidson reiterated his opinion that BRW will provide a completely different perspective on downtown redevelopment based on their varied experience with other cities.

Councilmember Jaffa stressed the importance of developing a "night life" in the downtown to draw people into the area and eliminate the 9 to 5 image that currently exists.

Discussion ensued relative to the fact that BRW addressed density issues as they relate to transportation and that they currently have an individual on staff who is working with RPTA on bringing a light rail system into Phoenix and Mesa on a separate contract, Mayor Brown's comment that Eddie Basha now owns AJ's Markets and has indicated an interest in locating one of these upscale stores in Mesa, and the importance of determining how such a facility would fit into the downtown area.

Councilmember Hawker clarified that the RPTA person who is a part of the BRW team is employed by RPTA and will work with whoever is selected as our urban designer. Councilmember Hawker added that the Urban Design Studio employs their own in-house light rail expert who has the ability to assist Mesa in their transit efforts.

It was moved by Councilmember Hawker, seconded by Councilmember Kavanaugh, that the firm Urban Design Studio be selected as the consultant to develop a Downtown Concept Plan for the City of Mesa.

Mayor Brown stated that he would not support the motion and indicated his preference that the firm of BRW be selected for this project.

Councilmember Jaffa commented that following discussions with staff relative to this issue, he would also support the appointment of BRW as the consulting firm to develop a Downtown Concept Plan for Mesa.

Councilmember Pomeroy advised that although he relies heavily on Committee recommendations, he is impressed by comments from Councilmember Davidson relative to the importance of creating a new image for Mesa and focusing on the arts and entertainment center. Councilmember Pomeroy said that he too would support the selection of BRW rather than the Urban Design Studio for this particular project.

Vice Mayor Giles concurred with Councilmember Pomeroy's comments and said that he would also prefer the appointment of BRW as the consulting firm.

Upon tabulation of votes, it showed:

AYES - Hawker-Kavanaugh

NAYS - Brown-Davidson-Giles-Jaffa-Pomeroy

Mayor Brown declared the motion failed.

It was moved by Councilmember Jaffa, seconded by Councilmember Davidson, that the firm BRW be selected as the consulting firm to develop a Downtown Concept Plan for the City of Mesa.

Councilmember Hawker noted that the cost for BRW to develop the plan will be \$90,000 while the Urban Design Studio has estimated their costs at \$60,000. Councilmember Hawker said that the \$30,000 difference would allow the City of Mesa to hire additional consultants and obtain additional views on the Town Center project at a later date.

Upon tabulation of votes, it showed:

AYES - Brown-Davidson-Giles-Jaffa-Kavanaugh-Pomeroy

NAYS - Hawker

Mayor Brown declared the motion carried by majority vote.

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

- a. Design Review Board meeting held March 3, 1999.

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

Carried unanimously.

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

Mayor Brown discussed his attendance at a recent Legislative session and said that the new model of the Rio Salado project is on display and encouraged the members of the Council to take the time to view the upscale design.

7. Scheduling of meetings and general information.

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

Thursday, March 25, 1999 – Council Study Session

Thursday, March 25, 1999 – Utility Committee Meeting immediately following the Study Session.

(Mayor Brown advised that it is the consensus of the Council that future Study Sessions convene at 7:30 a.m. rather than 8:00 a.m.)

Discussion ensued among the members of the Council relative to improvements to the agenda to maximize the effectiveness of the meetings and the fact that approximately two hours should be allotted for a majority of the Council Study Sessions. Mayor Brown recommended that priority issues be the first items on the agenda followed by elective items that may or may not be discussed depending upon time limitations. Mayor Brown requested that staff analyze this issue and develop recommendations relative to improving the effectiveness of the agendas/meetings and whether a need for an additional Study Session exists.

In response to comments from Councilmember Jaffa relative to Mayor Brown's statement that Mr. Basha has expressed an interest in opening an AJ's market in Mesa, Mayor Brown recommended that staff be directed to prepare the draft resolution but emphasized the importance of first determining that the consultant concurs that this would be an appropriate addition to the overall downtown plan.

Discussion ensued among the members of the Council relative to the fact that Police Chief Jan Strauss will be presented an alumni achievement award at Arizona State University on Monday evening and it was the consensus of the Council to delay the dinner meeting with Salt River Project on Monday to allow the members of the Council to attend the presentation.

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

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

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

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

10. Adjournment.

Without objection, the Study Session adjourned at 9:35 a.m.

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WAYNE BROWN, MAYOR

ATTEST:

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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 18th day of March 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_ 1999

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BARBARA JONES, CITY CLERK