

GENERAL DEVELOPMENT COMMITTEE MINUTES

July 8, 2002

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 July 8, 2002 at 3:00 p.m.

COMMITTEE PRESENT

Dennis Kavanaugh, Chairman
Kyle Jones
Claudia Walters

COUNCIL PRESENT

Rex Griswold

OFFICERS PRESENT

Mike Hutchinson

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

1. Discuss and consider responses to the City's Request for Qualifications (RFQ) and the draft Request for Proposals (RFP) for Site 21 (formerly the Bank One building) located at One North Macdonald Street.

Redevelopment Director Greg Marek and Senior Redevelopment Specialist Patrick Murphy addressed the Committee concerning this agenda item. Mr. Murphy reported that since purchasing the Bank One building in 1997, the City has worked with two developers to redevelop the building. He added that although neither developer followed through with redevelopment of this property, the Downtown Development Committee (DDC) approved redevelopment plans for this site and the design review process was completed.

Mr. Murphy further reported that this site is one of several sites being considered by Hunter Interest Inc. in connection with the economic development strategy commissioned by the City regarding City-owned properties in the Town Center area. He stated that Hunter Interests recommended that the City pursue redevelopment of this site through a two-step process by first issuing a Request for Qualifications (RFQ) to determine qualified developers' interest in the property, followed by a Request for Proposals (RFP) process. Mr. Murphy stated that the RFQ was issued and resulted in the submission of seven responses from qualified developers.

In response to a question from Chairman Kavanaugh concerning the previously approved plans for this property, Mr. Murphy advised that a number of developers who responded to the RFQ expressed interest in utilizing the approved plans and he noted that eliminating a second design review process would shorten the redevelopment process by several months. He added that the previously approved plans are the property of BPLW Architects and that BPLW has

indicated that they would allow their plans to be used based on the condition that they are included in the project as a tenant.

Mr. Murphy reported that the City received seven responses to the RFQ from a diverse group of developers whose concepts included mixed uses of retail and restaurants on the ground floor and offices and residential on the upper floors. Mr. Murphy said that a RFQ evaluation team comprised of himself, Mr. Marek, Economic Development Director Dick Mulligan, Real Estate Director Doug Tessendorf, Tom Verploegen, Executive Director of the Mesa Town Center Corporation and Ernie Bleinberger of Hunter Interests reviewed the submittals and concur that the various responses are from qualified developers and that it is appropriate to proceed with the RFP process. He added that on June 27, 2002, the Downtown Development Committee unanimously approved moving forward with the RFP process.

Mr. Murphy discussed the proposed RFP and advised that there is an emphasis on the use of quality, class-A type materials, retail and restaurant uses on the ground floor, high-end tenants and evidence of financial strength and capacity to secure private capital on the part of the developer.

Mr. Marek discussed the fact that although staff anticipated receiving approximately three submittals to the RFQ, seven qualified submittals were received. He added that discussions with the various submitters revealed commitment to the project. He stated that this represents a \$5 million project and staff anticipates receiving numerous, diverse responses to the RFP. He added that the RFP responses will be subjected to a ranking process by the DDC, this Committee and the Council.

Committeemember Walters spoke in support of the RFQ process and moving forward with the RFP process.

It was moved by Committeemember Walters, seconded by Committeemember Jones, to recommend to the Council that the recommendations from staff and the Downtown Development Committee to proceed with the Request for Proposals (RFP) for Site 21 (formerly the Bank One building) located at One North Macdonald Street, be approved.

Discussion ensued regarding the fact that the RFP is not limited to submitters to the RFQ process; the fact that the City will benefit from redevelopment of this property through sales tax revenue, utility income, benefits related to jobs that are created in the building, and benefits associated with aesthetically improving the building and spurring further economic development in the Town Center; and the fact that the City acquired the building and surface parking lot for \$1.5 million, spent \$500,000 for asbestos abatement and maintained utilities at the building since 1997.

City Manager Mike Hutchinson advised that the City acquired the property in 1997 to prevent a proposed reuse of the property that the City deemed was not in the best interest of the City and the Town Center.

In response to a question from Committeemember Jones concerning the possibility of the City utilizing office space in this building, Mr. Hutchinson stated the opinion that returning this property to private use is a more appropriate use of the property.

Discussion ensued regarding the fact that the City has received inquiries from prospective office space tenants for this building, the fact that the Pomeroy building has no available office space at this time, and the fact that the responding developers have indicated confidence in their ability to lease available space in the redeveloped building to private sector tenants.

Carried unanimously.

2. Discuss and consider Request for Proposals (RFPs) for the Mitten house located at 238 West 2nd Street and the Pomeroy house located at 217 North Morris Street.

Mr. Marek and Redevelopment Planner Tony Felice addressed the Committee concerning this item.

It was moved by Committeemember Walters, seconded by Committeemember Jones, to recommend to the Council that staff's recommendations concerning Request for Proposals (RFPs) for the Mitten house located at 238 West 2nd Street and the Pomeroy house located at 217 North Morris Street, be approved.

Mr. Marek stated that these buildings are historically significant and were relocated due to development of the new Mesa Arts Center. He advised that the City will provide utilities to the structures and that the new owners will be responsible to comply with Building Code and landscaping requirements. He noted that the City's primary considerations in connection with the RFPs will be proposed improvements and use.

Carried unanimously.

3. Discuss and consider a Request for Proposal (RFP) for 146 West Main Street (formerly the warehouse for Crismon's Baby Boutique).

Mr. Marek and Mr. Felice addressed the Committee concerning this item.

It was moved by Committeemember Jones, seconded by Committeemember Walters, to recommend to the Council that staff's recommendations concerning a Request for Proposal (RFP) for 146 West Main Street, be approved.

In response to a question from Committeemember Walters, Mr. Marek advised that this building does not have a basement.

Carried unanimously.

4. Discuss and consider moving a concept proposal from Arizona Bronze forward to negotiations.

Mr. Marek, Mr. Felice, Arts and Cultural Director Geri Gerber and Tom Verploegen, Executive Director of the Mesa Town Center Corporation addressed the Committee regarding this agenda item. Mr. Marek commented on the favorable Sculptures in the Street program that the City has participated in during recent years and also on the various cultural amenities existing in the Town Center and the current development of the new Mesa Arts Center.

Mr. Marek advised that under the direction of Ms. Gerber, a team was formed to evaluate the possibility of establishing an Arts and Cultural District in the downtown area. He reported that this team has considered possible boundaries for a future district and referred to a map on display in the Council Chambers that depicted an area bounded by the Amphitheater on the north, Robson on the west and the South Center Street Campus on the south. He added that the team has also discussed utilizing the South Center Street Campus for arts related uses in the future. He noted that evaluations related to a future Arts and Cultural District are still in the preliminary stages and the team intends to submit this concept to the Council for consideration in the future. Mr. Marek also commented on the fact that various art galleries and Sagura Publishing, which has a national fine arts printing reputation, have recently relocated in the downtown area.

Mr. Marek reported that Arizona Bronze Fine Arts Atelier (Arizona Bronze) recently approached the City concerning their interest in relocating to downtown Mesa near the future Mesa Arts Center. He stated that Arizona Bronze has presented a concept plan for its new facility, which was provided to the Committeemembers, and includes a sculpture garden, artists' studios, retail outlets and facilities for their production business that will accommodate public tours of the production process. Mr. Marek stated that staff supports Arizona Bronze's proposal (including contribution of a two-acre parcel from the City) and that it is the opinion of staff that locating Arizona Bronze in the Town Center represents a significant amenity for the City.

Mr. Marek advised that Arizona Bronze's criteria associated with this project includes a minimum two-acre parcel that is zoned to support commercial and light industrial uses within close proximity of the new Mesa Arts Center. Mr. Marek commented on the various sites that were considered and said that the Mesa Vista School Site, which is presently owned by the City, was determined to be the most appropriate location for this project.

Mr. Marek stated that staff is seeking direction from the Committee concerning whether there is support for the relocation of Arizona Bronze to the Town Center area and whether the Mesa Vista School site is the appropriate location for this business.

Ms. Gerber stated that since Sagura Art relocated in the downtown area, there has been an increased "buzz" in the arts community relative to Mesa being a future arts destination. She stated that this recent arts related activity is a direct result of active development of the new Mesa Arts Center. She commented on the national reputation and stature of Arizona Bronze in the arts community and voiced the opinion that the relocation of Arizona Bronze to Mesa will help to further Mesa's position as an arts and cultural destination. She stated support regarding Arizona Bronze's concept plan, particularly the educational aspects of the plan.

Mr. Verploegen stated that the Mesa Town Center Corporation supports the relocation of Arizona Bronze to the Town Center and commented on the economic development benefits associated with this proposal and the benefits associated with furthering the image of Mesa as a City of Sculptures. He also discussed the fact that the City of Loveland, Colorado has enjoyed significant economic development benefits as a result of having two foundries locate in that community.

Tom Bollinger, Managing Owner of Arizona Bronze Fine Arts Atelier, addressed the Committee and said that Arizona Bronze's expertise in the fine arts area centers around sculptures. He stated that in addition to the manufacturing component of the foundry, the concept plan for the

new facility provides a retail facility and an educational component that will include public exposure to the artisan process of creating sculpture. He stated that the culmination of this proposal will provide the City with a free sculpture garden where various sculptures from numerous artists will be displayed on a rotating basis.

Discussion ensued regarding the proposed location of this project on the Mesa Vista School Site on the west side of Center Street, from the railroad tracks north to the existing City Personnel and Employee Benefits buildings, and the fact that portable units are presently located on this site.

Chairman Kavanaugh commented on the fact that the City acquired this parcel from the Mesa Public School District for the purpose of providing an interim facility to house City offices. He added that the City's long-term plan provides for the relocation of City employees currently housed at this facility back to the Mesa City Plaza campus. Chairman Kavanaugh stated support for locating Arizona Bronze on this site and commented on the excellent reputation of the foundry.

Mr. Marek discussed the fact that the current Mesa Town Center Concept Plan provides for multi-family residential use at this recommended site and suggested that reevaluation of the three-year old Concept Plan be considered in the near future.

Discussion ensued regarding the fact that active construction of the new Mesa Arts Center has resulted in increased redevelopment related interest in the Town Center, particularly related to the arts.

In response to a question from Committeemember Walters, Mr. Hutchinson stated that because the City is using this property for interim purposes only, he has no concerns regarding abandoning this facility in the future. He stressed the importance of incorporating a full public comment process in connection with updating the Mesa Town Center Concept Plan to change the designation for this site from residential to commercial/industrial uses and also commented on the importance of properly locating the foundry on the site to accommodate additional future redevelopment.

Committeemember Walters voiced the opinion that combining residential and commercial uses on this site would be appropriate in view of the possibility of developing this area in the future into a live-and-work arts district. She clarified that she is not proposing that the City proceed with additional studies concerning the Town Center Concept Plan and stated the opinion that City staff has the ability to accomplish any revisions deemed appropriate.

Committeemember Jones voiced the opinion that locating the Arizona Bronze foundry on this site adjacent to the railroad tracks would provide an appropriate buffer for future residential uses.

In response to questions from Committeemember Jones concerning noise associated with the foundry operations, Mr. Bollinger stated that a sound abatement wall is planned to surround the facility and that the foundry does not operate at night.

It was moved by Committeemember Walters, seconded by Committeemember Jones, that staff proceed with developing an agreement between the City and Arizona Bronze for submission to the Council for consideration.

Carried unanimously.

5. Discuss and consider clarifying the Mesa City Code pertaining to the ability to recover City expenses for previously installed infrastructure improvements.

Deputy City Attorney Joe Padilla addressed the Committee concerning this agenda item and advised that when the City widens or builds streets and installs curb, gutter and sidewalk along the frontage of private property, pursuant to Arizona Revised Statutes § 9-243 (Scalloped Street Lien Statute), the City may file a lien against the property to recover the cost of installing the improvements. He explained that the lien is non-interest bearing and that if the owner does not develop the property within 10 years from the date the lien is filed, the lien abates.

Mr. Padilla stated that developers claim that if the Scalloped Streets lien has abated, they are entitled to reap the benefits of developing along an improved street and should not have to reimburse the City for the cost of installing streets, curb, gutter and sidewalk. He further advised that development staff has taken the position that pursuant to Mesa City Code § 9-6-4, 9-6-7, 9-8-3 and 9-8-4, the City has authority to require developers to reimburse the City for the cost of the improvements regardless of when they were installed. He added that developers dispute staff's analysis in this regard and claim that the City is without authority to require developers to pay anything towards the previously installed improvements absent a specific City Ordinance allowing for reimbursement.

Mr. Padilla advised that after reviewing this issue, legal staff concludes that there is a "gray area" with respect to provisions of the Mesa City Code relative to this unique issue. Mr. Padilla stated that staff is seeking Committee direction relative to amending the City Code to provide language that authorizes the City to recoup costs for improvements previously installed, subsequent to expiration of a Scalloped Street Lien; and also regarding methods to be used to calculate recoverable costs.

Mr. Padilla outlined three alternative methods to calculate recoverable street improvement costs, including:

- 1) Allow the City to recover the actual cost of previously installed improvements, regardless of whether a Scalloped Street Lien was filed or has abated;
- 2) Allow the City to recover the present day value of previously installed improvements, regardless of when the improvements were installed;
- 3) Allow the City to recover the cost of previously installed improvements adjusted for the development's impact to the City; or
- 4) Allow the City to recoup its cost of improvements adjusted using an annualized interest rate calculated from the date of Mesa's investment in said improvements until the date of the developer's formal permit application.

In response to a question from Committeemember Walters concerning the City's historical representation to developers that liens for street improvements expire after a 10-year period, Mr. Padilla noted that other City Ordinances pertaining to development costs and impact fees have recently changed. He discussed significant policy changes that have occurred relative to collecting in-lieu fees and the placement of a moratorium on new City water services outside the City limits. He stated that a phase-in program concerning this proposed change would help to minimize impacts on developers and others relying on expired Scalloped Streets liens. Mr. Padilla further stated that due diligence by developers is not limited to title research and that it is incumbent upon developers to contact the City to ascertain specific property conditions and fee assessments.

Mr. Padilla stated that with Committee direction to draft an amended Ordinance concerning this issue, staff recommends that the amended Ordinance include a provision for the creation of a "Notice of Intent to Assess" document, which would be filed in connection with property that was improved by the City and provide property title notice concerning improvements and the City's intention and authority to seek reimbursement for improvement costs. He stated that staff further recommends that the City adopt method #4 (allowing the City to recoup its cost of improvements adjusted using an annualized interest rate) as the method used to calculate the reimbursement amount due the City for previously constructed improvements.

Committeemember Walters voiced support for the proposed Ordinance modifications on a "going-forward" basis only and noted that a large portion of the City contains undeveloped streets. She said that she is opposed to charging present day costs for older improvements.

Committeemember Jones concurred with Committeemember Walters' comments concerning approval of staff's recommendations on a going-forward basis only.

Chairman Kavanaugh stated that this issue illustrates the importance of reviewing the issue of street impact fees. He stressed the importance of drafting Code language that clarifies intent and eliminates ambiguity. He also stated support for moving forward with concurrent consideration of amended Code language concerning this issue and impact fees for street improvements.

Bob McNichols, representing the developers of Dover Industrial Park, addressed the Committee concerning this issue and provided an historical overview concerning Dover Industrial Park, including adjacent street improvements constructed by the City in 1987 and the current owner's purchase of the property in 1999. He commented on the Scalloped Streets Lien Statute and voiced the opinion that the assessment allowed under the statute, which is secured by a property lien, abates after a 10-year period. He added the opinion that City Code cannot overrule State law in this regard. He advised that although the Scalloped Streets lien on this property abated in 1997, in conjunction with a pending Development Agreement between Dover Industrial Park and the City, the City has assessed \$179,000 for improvements that cost \$36,000 in 1987. Mr. McNichols reported that he has numerous letters from the City Engineer concerning Longbow Industrial Park and Dover Industrial Park, which state that if the assessed property is not developed, the Scalloped Streets assessment is no longer due 10 years after the lien is recorded. He also commented on the fact that the Scalloped Streets Statute does not allow interest accumulation on the assessment.

Councilmember Griswold stressed the importance of maintaining consistency with respect to City interaction with developers. He said that although he supports high development standards, he is opposed to changing standards for projects that are already in progress.

Discussion ensued regarding the fact that staff's recommendation relative to calculating the reimbursement amount due to the City by adding annualized interest to the cost of improvements (#4), could be calculated on an open-ended basis, or based on a limited timeframe or another type of cap.

Mr. Hutchinson stressed the importance of addressing ambiguity in the City Code relative to this issue. He stated that staff is seeking Council policy direction regarding whether the cost of street improvements borne by taxpayers should be recouped from developers after a 10-year period has elapsed and he commented on the development value associated with street improvements. Mr. Hutchinson also noted that a portion of scalloped street improvements are constructed by the City in response to public safety concerns.

Committeemember Walters voiced the opinion that the governing policy concerning this issue should be that those who benefit from property improvements should pay the cost of those improvements whenever possible. She added that the public should not pay for improvements that accrue to a developer or an individual. She stated that although she is opposed to changing regulations for developers and individuals already involved in a specific development process, she supports moving forward with an amended ordinance on a going-forward basis, and reevaluating street impact fees. Committeemember Walters said that with respect to the method of calculating reimbursable costs, she believes accumulated interest should be proportionally capped.

Committeemember Jones reiterated his support for moving forward with an amended Ordinance on a going-forward basis only and urged staff to ensure that the proposed amended Ordinance does not conflict with State law and precludes future challenges. He added that he does not support assessing present day value for improvements that have degraded over time. Committeemember Jones commented on the pending Dover Industrial Park case and stated that he is opposed to the City attempting to recoup past assessments in this regard.

Chairman Kavanaugh directed staff to proceed pursuant to Committee direction and return to this Committee for further discussion and consideration prior to seeking Council direction.

6. Adjournment.

Without objection, the General Development Committee meeting adjourned at 4:10 p.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 8th day of July 2002. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK