



## COUNCIL MINUTES

December 5, 2011

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on December 5, 2011 at 5:49 p.m.

### COUNCIL PRESENT

Scott Smith  
Alex Finter  
Christopher Glover  
Dina Higgins  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

Dennis Kavanaugh

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Mayor Smith excused Councilmember Kavanaugh from the entire meeting.

Invocation by Pastor Mike Cash, East Valley Free Will Baptist Church.

Pledge of Allegiance was led by Easton Lambson, Scout Troop No. 553.

Mayor's Welcome.

Mayor Smith welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

Awards, Recognitions and Announcements.

Mayor Smith stated that he was privileged to work with the Mayor's Youth Committee (MYC), which includes the "best and brightest" young men and women in the community. He noted that the MYC is a year-long program in which a select group of junior and senior high school students from Mesa Public Schools, Charter schools and Desert Ridge, which is located in Mesa, but in the Gilbert Public Schools District, attend monthly meetings and participate in various community service projects in order to learn about City government.

Chief of Staff Kathy Macdonald, who facilitates the MYC Program, addressed the Council and reported that each year, the students are assigned to work on the Mayor's Assignment, which typically includes current City topics such as Fiesta District redevelopment or the light rail corridor. She explained that this year, the students were asked to submit their own transformative ideas for the iMesa initiative. Ms. Macdonald stated that the City is delighted to have such an elite group of youths providing input in this

regard and looked forward to seeing their ideas turn into reality. She introduced the members of the 2011/2012 Mayor's Youth Committee who were present in the audience.

1. Take action on all consent agenda items.

All items listed with an asterisk (\*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

It was moved by Councilmember Glover, seconded by Councilwoman Higgins, that the consent agenda items be approved.

Mayor Smith declared the motion carried unanimously by those present.

\*2. Approval of minutes of previous meetings as written.

Minutes from the November 21, 2011 Council meetings.

3. Take action on the following liquor license applications:

\*3-a. Mesa Arts Center Foundation

This is a two-day charitable event to be held on Saturday, December 10, 2011 from 10:00 a.m. to 6:00 p.m. and Sunday, December 11, 2011 from 10:00 a.m. to 6:00 p.m. at 1 East Main Street. **(District 4)**

\*3-b. Untouchables Law Enforcement Motorcycle Club Arizona Chapter

This is a two-day charitable event to be held on Saturday, December 10, 2011 from 10:00 a.m. to 5:00 p.m. and Sunday, December 11, 2011 from 10:00 a.m. to 5:00 p.m. at 1133 North Dobson Road. **(District 1)**

\*3-c. Mad Dog Saloon

New Bar License for Mad Dog Saloon, 1860 South Stapley Drive, Mad Dog Saloon AZ LLC – Dominic Anthony Riccobono, Agent. This location has a Bar License held by Anthem Restaurant Management, Inc. that will be transferred with the State. **(District 4)**

\*3-d. Hens and Chicks Café

New Restaurant License for Hens and Chicks Café, 2250 South Buttercup, Suite B, Hens and Chicks Café LLC – Donna Gail Adair, Agent. This location has a Restaurant License held by Michael's Fairway Grill that was surrendered to the State on 7/06/2010. **(District 6)**

\*3-e. Thai Patio

New Restaurant License for Thai Patio, 1929 North Power Road, Suite 101, Puttharaksa LLC – Teera Jattuchai, Agent. This is an existing building without a previous liquor license at this location. **(District 5)**

4. Take action on the following contracts:

\*4-a. Purchase system to provide Redundant Application Monitoring for Critical Application for the Information Technology Department. **(Sole Source) (Citywide)**

The Purchasing Division recommends awarding the contract to the sole source vendor, Attention Software, at \$25,610.65, including applicable use tax.

\*4-b. Purchase of software and hardware to improve Database Recovery/Monitoring Options for Critical Applications for the Information Technology Department. **(Citywide)**

The Purchasing Division recommends awarding the contract for the purchase of software using the State Contract with SHI International, Inc., at \$58,714.78; and additional hardware and software items to be acquired through normal purchasing processes at \$21,408.99, for a combined total award of \$80,123.77, including applicable taxes.

\*4-c. Purchase of a Replacement Heavy Duty Water Truck for the Transportation Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to the lowest, responsive and responsible bidder, Freightliner of Arizona, at \$252,577.02, including applicable sales tax.

\*4-d. Renewal of the Term Contract for Automotive Lighting, Mirrors and Safety Supplies for the Fleet Services Department. **(Citywide)**

The Purchasing Division recommends authorizing renewal with Fleetpride, Inc. (a Mesa business) at \$30,000 annually, and The Lighthouse, Inc. at \$56,000 annually, for the combined annual award of \$86,000, including applicable sales tax, based on estimated requirements.

\*4-e. Renewal of the Term Contract for 3” Fire Hydrant Water Meters for the Water Resources Department. **(Citywide)**

The Purchasing Division recommends authorizing renewal with Badger Meter, Inc. at \$47,103.56 annually, including applicable use tax, based on estimated requirements.

\*4-f. Term Contract for Systems Furniture (Cubicles) and Installation Services for Replacements, Reconfigurations and Small Projects for Citywide Use as needed. **(Citywide)**

The Purchasing Division recommends authorizing use of the State contract with Goodmans, Inc. at \$100,000 annually.

- \*4-g. Term Contract for Traffic Control Signing and Sign Imaging Materials for the Transportation Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to lowest, responsive and responsible bidders, Safeway Sign Company, at \$133,659.61, including applicable use tax, based on estimated requirements.

- \*4-h. Term Contract for Taser X2 Equipment and Supplies for the Police Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to lowest, responsive and responsible bidder, Proforce Marketing, Inc., dba Proforce Law Enforcement, for a contract amount of \$180,000, including applicable sales taxes, based on estimated requirements.

- \*4-i. Mesa Cemetery Expansion, 1212 North Center Street. **(District 1)**

City Project 01-333-001. This project will complete the development of property on the north side of the cemetery. It will include new access ways, boundary walls and preparation of new interment sites. In addition, the existing pump station will be upgraded to allow the entire cemetery, including all current and future expansion areas, to be irrigated with non-potable water. Estimated savings to the City will be approximately \$50,000 per year.

Recommend award to the lowest bidder, Green Landscaping and Irrigation, Inc., in the amount of \$677,403.13, plus an additional \$67,740.31 (10% allowance for change orders) for a total award of \$745,143.44. Funding is available in the FY 11/12 Cemetery Capital Program.

5. Take action on the following resolutions:

- \*5-a. Memorializing prior pledges of development impact fees collected for Parks, Fire, Library and Public Safety to repay debt service on various public facilities and improvement projects – Resolution No. 9949.
- \*5-b. Approving and authorizing the City Manager to execute an Obligation Document with the United States Marshals Service to accept funds in the amount of \$82,950.00 for fuel and overtime for the Police Department Violent Offender Unit – Resolution No. 9950.
- \*5-c. Approving and authorizing the City Manager to execute a SubGrantee Agreement with the Arizona Department of Homeland Security (AZDOHS). This agreement will provide grant funds in the amount of \$256,000.00 for equipment and training for the Police Department's Rapid Response Team (RRT) – Resolution No. 9951.
- \*5-d. Approving and authorizing the City Manager to execute a SubGrantee Agreement with the Arizona Department of Homeland Security (AZDOHS). This agreement provides \$267,609.00 to the Mesa Fire Department for the Metropolitan Medical Response System (MMRS) – Resolution No. 9952.

- \*5-e. Approving and authorizing the City Manager to execute a SubGrantee Agreement with the Arizona Department of Homeland Security (AZDOHS). This agreement provides \$13,969.00 to the Mesa Fire Department for the Citizens Emergency Response Team (CERT) Program for equipment and training – Resolution No. 9953.
  - \*5-f. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with the Arizona Department of Homeland Security (AZDOHS). This agreement provides \$4,000.00 to the Mesa Fire Department for the Terrorism Liaison Officer (TLO) Program for equipment and training – Resolution No. 9954.
  - \*5-g. Approving and authorizing the City Manager to execute a SubGrantee Agreement with the Arizona Department of Homeland Security (AZDOHS). This agreement provides \$256,000 to the Mesa Fire Department for the Rapid Response Team (RRT) Program for equipment, training and planning – Resolution No. 9955.
  - \*5-h. Approving and authorizing the City Manager to execute an amendment to the Intergovernmental Agreement with Maricopa County, administered by its Human Services Department, Maricopa Workforce Connections, for the Access Point Program at the Mesa Public Library – Resolution No. 9956.
  - \*5-i. Approving and authorizing the City Manager to execute a North American Energy Standards Board Base Contract and Transaction Confirmation for supplies of natural gas and an Associated Services Agreement for gas supply and transportation administration, and the Base Contracts and Transaction Confirmations for supplemental supplies of natural gas – Resolution No. 9957.
- \*6. Effective January 2, 2012, increase the compensation of the City Attorney, City Clerk, City Auditor and City Magistrates by an amount equal to 2% of their biweekly base salary and authorize the Mayor to sign revised contracts for the City Attorney and City Clerk reflecting this change. This is to restore the 2% reduction implemented in January 2009.
- \*7. Approve an addendum to the Employment Agreement with Christopher J. Brady, City Manager.
8. Introduction of the following ordinance and setting December 12, 2011 as the date of the public hearing on this ordinance:
- \*8-a. **Z11-27 (District 2)** 915 North Val Vista Drive. Located on the north side of Adobe Road and on the east side of Val Vista Drive (40.4±acres). Modification of the existing PAD. This request will allow the development of a single residential subdivision. Taylor Morrison/Arizona, Inc., owner: W. Ralph Pew, Pew & Lake, PLC, applicant. (PLN2011-00298)
- P&Z Recommendation: Approval with conditions. (Vote: 6-0, Chair Carter absent.)
9. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that wants to provide comment should submit a blue card to the City Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (\*), a blue card must be given to the City Clerk before Council votes on the Consent Agenda.

- \*9-a. Amending Title 5 (Business Regulations), Chapter 17 (Development Impact Fees) of the Mesa City Code to eliminate the General Government and Cultural Facilities Impact Fees to comply with Senate Bill 1525 – Ordinance No. 5071.

- \*10. Assign delinquent accounts to collection services for the three-month period ending September 30, 2011, totaling \$222,360. (Citywide)

### **Items not on the Consent Agenda**

#### **11. Items from citizens present.**

Mayor Smith stated that he received a number of speaker cards from individuals wishing to discuss an issue that is not included on the agenda for Council action tonight. He explained that per State law, the Council can, but is not required to, hear items from citizens present. Mayor Smith advised that because the Council appreciates hearing from its citizens, a maximum of three individuals are allowed to address the Council for three minutes each on any issue under "Items from citizens present." He noted, however, that since such issues would not be included on the agenda, neither the Council nor anyone else can respond to a citizen's remarks.

Mayor Smith also pointed out that since there were two groups with opposing views regarding the Utah/Mesa Compact, he would allow three citizens in support and three citizens in opposition to address the Council. He first invited Steve Priebe, who submitted a speaker card, to address the Council with respect to a different issue.

Steve Priebe, a Mesa resident, stated that his home was located in the area serviced by the City of Mesa Electric Department. He commended the City for implementing various energy-saving measures and hoped that the City would offer its electric customers certain energy conservation programs (i.e., energy audits, rebates, support of solar energy systems). Mr. Priebe added that he installed solar panels on his home and noted that he would like his system to be net-metered, meaning that when the system produced more power than his household used, it would flow back into Mesa's power grid and he would receive a credit for such power.

Mayor Smith acknowledged that the Utah/Mesa Compact was an emotional issue, with strong opinions on both sides. He stated that the City Council meeting was a forum in which everyone exercised respect for the opinions of others and the venue itself. Mayor Smith cautioned that catcalls, whistling and applause would not be tolerated in the Council Chambers.

Mayor Smith clarified that the order in which the speaker cards were submitted would dictate which three citizens would speak in support and which three citizens would speak in opposition to this issue. He urged the speakers to keep their comments to less than three minutes.

Daniel Martinez, spokesperson for the East Valley Patriots for American Values, stated that the group is a faith-based, grassroots, non-partisan organization advocating for adoption of the Utah Compact and civil conversations regarding immigration. He noted that in December of 2010, the group first came before the Council seeking change in "the negative tone and direction of policy and legislation with respect to immigration." Mr. Martinez commended the Human Relations Advisory Board for their efforts and hard work this year, including soliciting input from citizens, law enforcement, businesses and the faith community regarding such matters. He added that in

May 2011, the Board voted unanimously to endorse the Mesa Compact, which is a slightly modified version of the five guiding principles of the Utah Compact.

Mr. Martinez also cited recent surveys, which indicated that a majority of Arizona citizens favor a more humane approach with respect to the issue of undocumented immigrants. He further remarked that newly-elected District 18 State Senator Jerry Lewis has expressed his support for the guiding principles of the Utah Compact. Mr. Martinez concluded his remarks by stating that it was the belief of the East Valley Patriots that it is time to begin the healing process.

Saul Solis, a member of the East Valley Patriots for American Values, read a statement into the record. **(See Attachment 1)**

Dr. Carolyn O'Conner, a member of the East Valley Patriots for American Values, commented that she has always been proud to be a Mesa resident, but noted that in the past few years, severe immigration laws have "tarnished" the image of Mesa and the State of Arizona. She said that history was made on November 8, 2011 when the first sitting Arizona Senate President was defeated in a recall election. She advised that this was accomplished due to the efforts of Republicans, Democrats and Independents working together for the betterment of their community.

Dr. O'Conner stated that on behalf of the East Valley Patriots for American Values, she respectfully requested that the City Council and Mayor Smith take a leadership role by bringing Arizona into civil discussion of immigration issues/policies and also include the adoption or endorsement of the Mesa Compact on their January 2012 Council meeting agenda.

Mayor Smith invited the three speakers who oppose the Mesa Compact to come forward and address the Council.

Jo Darling, a Mesa resident, expressed a series of concerns regarding those individuals who have come into the country illegally and "take our jobs, our homes and our generous taxpayer benefits." She commented that as an American citizen, she would applaud anyone who comes to this country legally. Ms. Darling added that she was "outraged" that the illegals "come to our country and demand to come to the front of the line and break our laws."

Bill Dowdy, a Mesa resident, remarked that it was difficult for people to come together and heal when citizens are asked to give up the rule of law. He stated that this country was founded on a common principle of abiding the law as opposed to making exceptions to it. Mr. Dowdy also noted that this discussion is occurring today because the Federal government will not enforce its own laws, resulting in cities and states being left to deal with the problem. He urged the Council to "leave this issue alone" and added that "political correctness" has not worked at the Federal, State or local level.

Courtney Snell, a Mesa resident, advised that the Utah Compact has not been passed into law anywhere and noted that its signees are pro-illegal immigration or pro-amnesty. He noted, however, that the document does not have bilateral support from both sides of the issue. Mr. Snell also stated that if the City of Mesa were to adopt the Utah Compact, it would be necessary to "go on record" to not honor or support Federal and State law and effectively make Mesa a Sanctuary City. He urged that the Council support the rule of law and legal, not illegal, immigration.

Randy Parraz, a Scottsdale resident, thanked the Mayor for allowing the speakers to address the Council regarding this important issue. He stated that tonight was not about whether the Council supports the Mesa Compact, which is by no means a binding contract, but simply a venue by which citizens are asking that the Council consider the problem of immigration. Mr. Parraz commented that such a discussion is especially timely in light of the recent historic recall election of State Senate President Russell Pearce, the author of SB 1070, and a national leader on the anti-immigration front. He encouraged the Council to include this item on a future Council agenda so that citizens on both sides of the matter can share their points of view and the Council can take a position.

Mayor Smith stated that the following citizens submitted speaker cards in support of the Mesa Compact, but did not wish to address the Council:

Antonio Vicente  
Raquel Leyva  
Jeff Cook  
Janet B. Cook  
Ruth Carreon  
Ana Cabrera  
Elizabeth Savino  
Donald Savino

Mayor Smith noted that Dinah Lundell submitted a speaker card in opposition to the Mesa Compact.

Mayor Smith expressed appreciation to everyone for the manner in which they conducted themselves. He also noted that the issue of illegal immigration is a contentious one and must be resolved.

Additional cards submitted in support of the Mesa Compact but not read into the record include the following:

Dan O'Neal  
Fred Barlam  
Lee Sheppard

Additional cards submitted in opposition to the Mesa Compact but not read into the record include the following:

Barbara Blewster  
Jan Brock  
Dan Dominey  
Jordan Snell  
Nina Sue Eames  
Dale Eames

12. Adjournment.

Without objection, the meeting adjourned at 6:27 p.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 5<sup>th</sup> day of December 2011. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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(attachment – 1)

Good Evening. Mayor Smith and members of the City Council. My name is Saul Solis, member of the East Valley Patriots, I live in District 3.

Today there is a sense of healing in Mesa and a feeling of hope for our communities and our state. But the damage caused by draconian laws and the economic, employment, and educational hardships continue. The damage done to children and families in Mesa, and other cities in our state has been immense.

The 2011 report on The Center For The Future of Arizona by Dr. Lattie Coor to help Arizona shape it's future, focused on issues critical to Arizona's quality of Life. The Gallup Poll study conducted in 2009 found 2 serious disconnects.

1. While 36% of Arizonans are highly attached to their communities they don't feel connected to one another. And only 12% of Arizonans believe strongly, the people in their community care about one another.

3. The second finding was that only 10% of Arizonans believe elected officials represent their interests. We would like to prove them wrong in Mesa. In fact, in 2010 only 10% of Arizonans visited or contacted a public official.

We have tried to contact Mesa City Council members to continue the discussion about the Mesa Compact. Unfortunately not all returned calls, or declined to meet. To those of you who met with us, thank you. We are still willing and ready to assist in building a bridge to a more caring community. And our conversations with many others in the community, business leaders, pastors and others indicate that's what people want.

As you know, the Mesa Compact is a non-binding, non-contractual, non-legal document of 5 principles or guidelines that can assist in having civil discourse not only on immigration and other major issues but also in creating a more caring community. The Compact, even though not binding, establishes a humane and just tone for dealing with issues in our city.

It's time for Mesa to take a stand. The time has come to move forward, and we are here to ask you to put the Mesa Compact on the Council agenda for a vote as soon as possible.

Mesa can take the high ground and become a leader among Arizona cities by adopting the Mesa Compact. Thank you.

Saul Solis

12/5/2011