



## COUNCIL MINUTES

February 17, 2011

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 February 17, 2011 at 7:35 a.m.

### COUNCIL PRESENT

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

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

### 1. Presentation/Action Items

#### 1-a. Hear a presentation, discuss and provide direction on revisions to the Massage Establishment Ordinance.

Licensing and Revenue Collections Administrator, Tim Meyer displayed a PowerPoint presentation (**See Attachment 1**) highlighting the proposed Code update for Massage Establishments. He stated that the original Code was completed on March 7, 2010 and that since that time some deficiencies had been noted.

Mr. Meyer advised that one of the areas that needed to be addressed was how a "temporary manager" would be defined within the Temporary Manager Clause of the Code. He stated that currently an establishment could appoint a "temporary manager" outside of the manager listed on the license.

Mr. Meyer said another area that needed to be clarified was the wording for the first year licensing fee. He proposed that the Licensing Office collect the application fee and postpone the collection of the licensing fee until after the issuance of the license. He noted that this would avoid fees having to be refunded in the event that the license was not approved.

Mr. Meyer informed the Council that the Licensing Office had requested that a government photo ID be issued to meet the photo requirement and that massage establishment licenses be deemed non-transferable. He added that these changes would provide consistency as no other

licenses were transferable. He stated that the Licensing Office also proposed that a "hold" be placed on the licensing process if the applicant had an outstanding misdemeanor or felony charge that had not yet been adjudicated.

Mr. Meyer advised that in the proposal if the Massage Establishment License did not reflect the correct name and address of the business owner it would be considered an administrative offense.

In response to a question from Councilwoman Higgins, Mr. Meyer explained that many times the name on the license was incorrect due to a transfer of ownership within the establishment. He said sometimes the name given when the State issued the license did not match the name provided when the business owner applied for licensing with the City. He added that requiring the correct name and address would provide conformity with the State licensing.

Mr. Meyer advised that the establishment would be required to have all therapist and manager licenses posted. He stated that government issued picture ID's for all employees would be required and available for inspection should the police enter the establishment. He noted that this would allow the police to verify that the person standing in front of them was a person licensed to be there.

Mr. Meyer advised that under the updated Code a licensee, who was exempt from having a manager's license, would produce a form from the Licensing Office validating their exemption. He remarked that many times the establishment would tell police officers that an employee on the premises was the "temporary manager" however, that employee did not possess any documentation to reflect this. He said that many times that particular employee had not even initiated the licensing process. He added that creating a form for an applicant to present to police officers that was generated by the Licensing Office was being explored.

Mr. Meyer advised that if an establishment was open for business outside the approved hours of operation it would be a criminal offense.

In response to a question from Mayor Smith, Mr. Meyer explained that the owner of the establishment would be considered the offender in the event of a criminal offense.

Mr. Meyer informed Council that in the updated Code it would be considered a criminal offense if the establishment changed the services offered, the configuration of the premises, or substituted a manager, temporary manager or designated agent without the Licensing Office's approval. He added that these were critical pieces of the Code and if the establishment did not have authorization to make these changes it would be a criminal offense.

In response to a question from Mayor Smith, Mr. Meyer explained that if a "temporary manager" did not have a license then the business would be out of compliance. He advised that there had been some inconsistencies where in some cases this offense was ruled as an administrative offense and some had been ruled a criminal offense. He added that this proposal was an attempt to clarify and provide consistency so that each business received the same treatment.

Mr. Meyer concluded by saying that the massage establishments must have a manager on site during the hours of operation.

Councilmember Kavanaugh stated that this proposal would enhance, strengthen and clarify the regulations that apply to massage establishments. He said that a number of the issues had been raised in hearings that had taken place since the ordinance was enacted.

In response to a question from Councilmember Kavanaugh, Mr. Meyer explained that the intention of the proposal was to provide consistency, clarification, ensure fair treatment, and let the massage establishments know exactly what was expected of them.

Councilmember Kavanaugh expressed his appreciation and support for the proposed recommendations in the updated Code and the clarification provided.

Mayor Smith thanked staff for the proposal and for identifying specific situations that created problems. He expressed his appreciation for the care taken by staff to provide regulations that did not burden and were effective in handling situations that were detrimental to the community. He added that he hoped this could be used as a model in handling other situations.

City Manager Christopher Brady advised that the changes would be brought back before the Council at a later time.

2. Appointments to boards and committees.

It was moved by Vice Mayor Somers, seconded by Councilmember Kavanaugh, to approve the appointments to boards and committees, and the motion carried unanimously. **(See Attachment 2)**

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

3-a. Museum and Cultural Advisory Board meeting held November 18, 2010.

3-b. Economic Development Advisory Board meeting held on January 4, 2011.

3-c. Judicial Advisory Board meeting held on October 6, 2010.

It was moved by Vice Mayor Somers, seconded by Councilmember Kavanaugh, that receipt of the above-listed minutes be acknowledged, and the motion carried unanimously.

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

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

5. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Thursday, February 24, 2011, 7:30 a.m. – Study Session

Monday, February 28, 2011, 5:45 p.m. – Regular Council Meeting

6. Items from citizens present.

There were no items from citizens present.

7. Convene and executive session.

It was moved by Vice Mayor Scott Somers, seconded by Councilmember Kavanaugh, that the Council adjourn the Study Session at 7:46 a.m. and enter into an Executive Session.

Carried unanimously.

7-a. Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position regarding contracts that are the subject or negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. §38-431-.03A(4))

1. Economic Development Project

8. Adjournment.

Without objection, the Executive Session adjourned at 8:35 a.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 Study Session of the City Council of Mesa, Arizona, held on the 17<sup>th</sup> day of February 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

bdw  
(attachments – 2)



# City of Mesa Massage Establishment Ordinance

Code Update  
February 28, 2011

# BACKGROUND

- On March 7, 2010, the City's Message Establishment Ordinance went into effect.
- During the past 11 months, deficiencies have been noted where it was determined that the code was either ambiguous or did not achieve the desired end result.

# CITY CODE UPDATE

- Create and define the ability to have a temporary manager
  - Approval process
  - Time period
- Clarify wording of 1st year license fees
- Substitute government-issued photo ID for photo requirement
- Make all licenses non-transferable
- Place a hold on the licensing process if the applicant has any misdemeanor or felony charges pending

- Make Administrative Offense if:
  - License with correct name and address is not posted
  - Requires establishment to have all therapist and manager licenses properly posted and government picture id for all employees upon request from an authorized person during an inspection
  - Licensee who is exempt from having a Manager's License must produce a form from the Licensing Office validating their exemption

- Make Criminal Offense if:
  - Establishment is open for business outside approved hours
  - Establishment changes the services offered, the configuration of the premises or substitutes a manager, temporary manager or designated agent without Licensing Office approval
  - Operates a massage establishment without a manager or temporary manager on duty during all hours the establishment is open for business



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Attachment 2  
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February 17, 2011

TO: CITY COUNCILMEMBERS  
FROM: MAYOR SCOTT SMITH   
SUBJECT: Appointments to Boards and Committees

Attached is my recommendation for one reappointment to City of Mesa Advisory Boards and Committees.

**Housing Governing Board** – Eight-member board, including the Mayor, six Councilmembers and one resident board member.

Reappointment:

William Egan, District 2. Mr. Egan is a retired attorney with a bachelor's degree in Business Administration from Arizona State University and a juris doctor from the University of Arizona Law School. Mr. Egan also served on the Flagstaff City Council during the 1970's. This will be Mr. Egan's seventh one-year term on the Housing Governing Board. His term will expire December 31, 2011.