



COUNCIL MINUTES

December 9, 2019

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on December 9, 2019 at 5:56 p.m.

COUNCIL PRESENT

John Giles
Mark Freeman*
Jennifer Duff
Francisco Heredia
David Luna
Kevin Thompson
Jeremy Whittaker

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Dee Ann Mickelsen
Jim Smith

(*Mayor Giles excused Vice Mayor Freeman from the beginning of the meeting; he participated through the use of telephonic equipment beginning at 6:25 p.m.)

Mayor's Welcome.

Mayor Giles led a moment of silence, followed by the Pledge of Allegiance.

Awards, Recognitions and Announcements.

There were no awards, recognitions or announcements.

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 Luna, seconded by Councilmember Thompson, that the consent agenda items be approved.

Upon tabulation of votes, it showed:

AYES – Giles-Duff-Heredia-Luna-Thompson-Whittaker
NAYS – None
ABSENT – Freeman

Mayor Giles declared the motion carried unanimously by those present.

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

Minutes from the September 19, October 24 Study Sessions and December 2, 2019 Regular Council meeting.

3. Take action on the following liquor license applications:

*3-a. Fountain of the Sun Community Association

This is a one-day event to be held on Wednesday, January 22, 2020 from 5:00 P.M. to 10:00 P.M. at Fountain of the Sun Activity Center, 560 South 80th Street. **(District 5)**

*3-b. Fountain of the Sun Community Association

This is a one-day event to be held on Wednesday, February 26, 2020 from 5:00 P.M. to 10:00 P.M. at Fountain of the Sun Activity Center, 560 South 80th Street. **(District 5)**

*3-c. Fountain of the Sun Community Association

This is a one-day event to be held on Wednesday, March 25, 2020 from 5:00 P.M. to 10:00 P.M. at Fountain of the Sun Activity Center, 560 South 80th Street. **(District 5)**

*3-d. Venture Out Social Club

This is a one-day event to be held on Monday, January 13, 2020 from 5:00 P.M. to 8:00 P.M. at the Venture Out Buena Vista Ballroom, 5001 East Main Street, #154. **(District 2)**

*3-e. H Mart Mesa LLC

A convenience store is requesting a new Series 10 Beer and Wine Store License for H Mart Mesa LLC, 1919 West Main Street - Amy S. Nations, agent. There is no existing license at this location. **(District 3)**

*3-f. A-Mart

A convenience store is requesting a new Series 10 Beer and Wine Store License for Sodhi Brothers A-Mart LLC, 839 South Stapley Drive - Phuljit Singh, agent. The existing license, held by Zuhra LLC, will revert to the State. **(District 4)**

*3-g. Faby's Market

A convenience store is requesting a new Series 10 Beer and Wine Store License for Fabiola's Fabulous LLC, 726 East Broadway Road - Richard Lee Davenport, agent. The existing license, held by Marisol Nutrition LLC, will revert to the State. **(District 4)**

4. Take action on the following contracts:

*4-a. Five-Year Term Contract with Five Years of Renewal Options for Banking Services (Service Groups 1, 2, and 4) for the Financial Services Department. **(Citywide)**

The City of Mesa makes extensive use of banking services to collect, disburse and manage its cash and investments. General banking services includes cash services, deposit services, disbursement services, electronic transfer of funds, and general reporting. Merchant card services represent the City's ability to process credit card transactions. Institutional custody services represent the safekeeping of the assets/securities in the City's investment portfolio. Paying agent services includes a qualified paying agent, registrar, transfer agent, filing agent, and trustee for current and future bond issues.

An evaluation committee recommends awarding the contracts to the highest-scored proposals from the following vendors: General Banking – JP Morgan Chase, at \$120,000 annually; Merchant Card Processing - U.S. Bank / Elavon, at \$18,000 annually; and Paying Agent Services - UMB Bank, N.A., at \$18,000 annually; with an annual increase allowance of up to 5%, or the adjusted Consumer Price Index.

- *4-b. Extension and Dollar-Limit Increase to the Term Contract for Office Supplies and Products for Citywide Departments and the Strategic Alliance for Volume Expenditures Cooperative Members as requested by the Business Services Department. **(Citywide)**

The 6-month contract extension and increase are needed to allow enough time to do a new solicitation. Purchasing is choosing to re-time the solicitation of the contract to move away from the beginning of the calendar year, as that is when manufacturers push new pricing to office supply vendors.

The Business Services Department and Purchasing recommend extending the contract through September 30, 2020 and increasing the dollar-limit with WIST Office Products by \$550,000, from \$650,000 to \$1,200,000 (Mesa Spend), based on estimated usage.

- *4-c. One-Year Renewal to the Term Contract for Presort Mail Services for the Business Services Department. **(Citywide)**

This contract provides mail presort services for automated first class and standard mail. Presort services provide a discounted mail rate to the City by taking mail and sorting it by geographic location before being delivered to the U.S. Postal Service.

The Business Services Department and Purchasing recommend authorizing the renewal with Pitney Bowes Presort Services, LLC (formerly Pitney Bowes Presort Services, Inc.), at \$55,000 annually, based on estimated usage.

- *4-d. Three-Year Term Contracts with Two Years of Renewal Options for Emergency Vehicle Preemption (EVP) Equipment for the Transportation Department. (Sole Sources) **(Citywide)**

Opticom and Emtrac systems are Transportation's standard for emergency vehicle preemption within the City. The City uses these optical and GPS based systems at nearly 400 signalized intersections. The EVP equipment is required to maintain current systems and needed for new systems at intersections.

The Transportation Department and Purchasing recommend awarding the contracts to the sole source vendors: ACT Traffic Solutions, Inc., at \$250,000 annually; and Advanced Traffic Products, Inc., at \$250,000 annually; with an annual increase allowance of up to 5%, or the adjusted Producer Price Index.

- *4-e. One-Year Renewal with Four Years of Renewal Options to the Term Contract for a Hosted Event Booking Solution for the Arts & Culture Department. **(Citywide)**

In 2015, the City implemented a hosted event booking solution for integrated scheduling, booking, contract negotiation, financial management, and closeout functions for the MAC. This contract provides an ongoing annual software subscription to use the hosted system for booking events.

The Arts and Culture Department and Purchasing recommend authorizing the renewal with Ungerboeck Systems International, Inc., at \$60,000 annually, with an annual increase allowance of up to 5%, or the adjusted Consumer Price Index.

- *4-f. One-Year Renewal to the Term Contract for Bus Shelter Maintenance and Repair Services for the Transit Services Department. **(Citywide)**

This contract provides annual bus shelter maintenance and repair services at various bus shelters, Bus Rapid Transit (BRT) stations, and Park and Ride locations throughout the City. Services include weekly routine cleaning and maintenance, and occasional as-needed, where-needed repairs.

The Transit Services Department and Purchasing recommend authorizing the renewal with A Mind for Detail Inc., dba AMFD (a Mesa business), at \$347,675 annually, based on estimated requirements.

- *4-g. Five-Year Term Contract with Five Years of Renewal Options for Motorola and Kenwood Radio Equipment, Parts, Network, and Services for various City Departments as requested by the Information Technology Department (Motorola-Sole Source). **(Citywide)**

These cooperative contracts will allow Information Technology - Communications to make as-needed purchases of Motorola and Kenwood radio equipment, parts, repairs, and services for various City departments. Communications, Police, and Fire and Medical Departments, as well as other City departments, have standardized on Motorola and Kenwood two-way portable and mobile radios due to their durability and interoperability functionality with other public safety agencies.

The Information Technology Department and Purchasing recommend authorizing the purchase using the State of Arizona and Maricopa County cooperative contracts with Motorola Solutions, Inc., Durham Communications, Inc., and JVCKenwood USA Corporation, at \$400,000 annually, with an annual increase allowance of up to 5%, or the adjusted Consumer Price Index.

- *4-h. Purchase of 379 Motorola and Kenwood Portable and Mobile Radios, Accessories, and Related Equipment (366 Cycle Replacement and 13 Additions) for the Mesa Fire and Medical Department as requested by the Information Technology Department (Sole Source). **(Citywide)**

This purchase is for the cycle replacement of 366 Motorola radios that are no longer manufactured or supported by Motorola. 159 of the radios will be delivered to the City in FY 19/20. 220 Motorola portable radios will be delivered in early FY 20/21 due to design changes requested by both Phoenix and Mesa. It is anticipated that the lifecycle of the

radios is 5 - 7 years. 13 are grant-funded additions and will be used to support special operations throughout Arizona.

The Mesa Fire and Medical and Information Technology Departments and Purchasing recommend authorizing the purchase using the State of Arizona and Maricopa County cooperative contracts with Motorola Solutions, Inc. and Durham Communications, Inc. at \$3,525,000, based on estimated requirements. This purchase (366 radios) is funded through Public Safety Sales Tax (\$1.7M) and the Communications Department (\$1.7M). The 13 portable radios (additions) are being funded by a Salt River Pima-Maricopa Indian Community grant (\$125,000).

- *4-i. Three-Year Term Contract with Two Years of Renewal Options for Air Quality, Water and Wastewater Compliance Management System Subscription for the Water Resources Department. **(Citywide)**

This contract will provide a qualified firm to provide a hosted management software solution for compliance in air quality, cross connection, water, and wastewater. These software compliance modules have been in use at City of Mesa for several years. The subscription service is needed to continue with this reporting software as well as to add new modules as they become available.

An evaluation committee recommends awarding the contract to the highest-scored proposal from NJBSoft, LLC, at \$150,000 annually, with an annual increase allowance of up to 5%, or the adjusted Consumer Price Index.

- *4-j. Purchase for the On-Site Rebuild of Two SEEPEX Pumps at the Southeast Water Reclamation Plant for the Water Resources Department (Sole Source). **(Citywide)**

Wet-end rebuild/repairs are required for the SEEPEX MS transfer pumps at the Southeast Water Reclamation Plant that have been in service since 2006.

The Water Resources Department and Purchasing recommend authorizing the purchase with the sole source vendor, SEEPEX, Inc., at \$200,000, based on estimated requirements.

- *4-k. One-Year Term Contract with Two Years of Renewal Options for Job Order Master Contract for Pool Construction Services through the use of the City of Scottsdale Cooperative Job Order Contract. **(Citywide)**

This agreement authorizes the use of the existing City of Scottsdale cooperative job order contract with Shasta Industries to perform pool construction services for the City of Mesa. Utilizing the City of Scottsdale's contract provides Mesa with a more efficient method of pool repair and maintenance services, while avoiding the high costs and lengthy procurement time associated with traditional delivery methods.

The Engineering and Parks, Recreation and Community Facilities Departments recommend authorizing the use of the City of Scottsdale Cooperative Job Order Contract with Shasta Industries. The contracts will be limited to \$1,500,000 per job order, and a total contract value not to exceed \$3,000,000 for each year of the contract, based on estimated programming and maintenance requirements.

*4-l. Jefferson Park Playground Improvements. **(District 5)**

The playground equipment has reached the end of its lifecycle and is due for replacement. This project will furnish and install new playground equipment, site amenities, concrete ramps and new playground surfacing to the existing playground at Jefferson Park. The playground equipment and surfacing will be replaced and modernized. Special picnic tables and sidewalk ramps will make the playground more accessible for those with disabilities.

Staff recommends awarding the contract for this project to the lowest, responsible bidder, Hesscor Inc., at \$294,671.08, and authorizing \$29,467.11 (10%) as a change order allowance, for a total amount of \$324,138.19. This project is funded by Community Development Block Grant funds.

*4-m. Purchase of Replacement 15kV Switchgear and Adapter for the Lewis Substation as requested by the Energy Resources Department. **(District 1)**

The purchase will provide a new 15kV class switchgear and rooftop adapter assembly to replace the existing 43-year old switchgear in service at the East bay of the Lewis Substation. The replacement is needed to maintain the safe and reliable supply of 12kV and lower voltage distribution to City electric customers.

An evaluation committee recommends awarding the contract to the highest-scored proposal from Powercon Corporation, at \$393,065, based on estimated requirements. This purchase is funded by 2014 Electric Bonds.

*4-n. See: **Items not on the Consent Agenda.**

*4-o. Purchase of a Transformer (Replacement) for the Lewis Substation as requested by the Energy Resources Department. **(District 1)**

This purchase will provide a new 28MVA 69kV-12.47kV power transformer to replace the existing 43-year-old transformer that is in service at the East bay of the Lewis Substation. The replacement is needed to maintain the safe and reliable supply of 12kV and lower voltage distribution to City electric customers.

An evaluation committee recommends awarding the contract to the highest-scored proposal from Virginia Transformer Corp., at \$597,599, based on estimated requirements. This purchase is funded by 2014 Electric Bonds.

5. Take action on the following resolutions:

*5-a. Approving and authorizing the City Manager to accept grant funds of up to \$60,000 made available through the National Endowment for the Arts to support public workshops and for the installation of an art exhibition at the Mesa Contemporary Arts Museum in the summer 2020. **(Citywide)** – Resolution No. 11435

*5-b. Approving and authorizing the City Manager to enter into Amendment No. One to the Intergovernmental Agreement with the Arizona Department of Transportation for the maintenance of the Mesa Gateway Multi-use Pathway along Loop 202 Santan Freeway, from Baseline Road to Elliot Road. **(District 6)** – Resolution No. 11436

- *5-c. Approving and authorizing the City Manager to enter into a Master Tenant Lease for the West World War II hangar at Falcon Field Airport with the Falcon Warbirds Foundation, Inc. and the Wings of Flight Foundation, Inc. to preserve and promote the history of Falcon Field Airport. **(District 5)** – Resolution No. 11437
- *5-d. Approving and authorizing the City Manager to enter into an Intergovernmental Agreement with the Arizona Department of Transportation for the construction and maintenance of the Mesa Gateway Multi-use Pathway along Loop 202 Santan Freeway, from Elliot Road to Hawes Road. **(District 6)** – Resolution No. 11438
- *5-e. Approving and authorizing the City Manager to enter into a Real Property Exchange Agreement and Escrow Instructions for the sale of a portion of City-owned property located at 10702 East Elliot Road (APN 304-02-892) in exchange for Assessor Parcel Number 304-01-006P, for a new wellsite. **(District 6)** – Resolution No. 11439
- *5-f. See: **Items not on the Consent Agenda.**
- *5-g. Vacating a road right-of-way and extinguishing a PUF in the 2400 block of North 40th Street that are no longer necessary for public purpose, to allow for the development of The Estates at Hermosa Vista subdivision; requested by the property owner. **(District 5)**

For continuance to a January 2020 City Council meeting.

6. Discuss, receive public comment, and take action on the following ordinances:

- *6-a. Repealing in its entirety the existing Chapter 5: Residential Districts, Chapter 6: Commercial and Mixed Use Districts, and Chapter 7: Employment Districts, of Title 11 of the Mesa City Code, and adopting by reference the public record known as “2019 - Chapters 5, 6 and 7 of the Zoning Ordinance”, and identified for codification as Chapters 5 - 7 of Title 11, the Zoning Ordinance of the Mesa City Code. **(Citywide)** – Ordinance No. 5541
- *6-b. Repealing and replacing Chapter 7 of Title 9 of the Mesa City Code, pertaining to Community Antenna Television Systems to comply with recent changes to state law. The changes correlate to the state’s uniform licensing requirements and regulation of video services; establish standards in the areas of indemnification, right-of-way management, undergrounding of facilities; and codify the City’s existing 5% franchise fee. **(Citywide)** – Ordinance No. 5542
- *6-c. Amending Title 1, Chapter 33, Section 1 of the Mesa City Code relating to election dates for candidates for the offices of Mayor and Councilmember. The amendment modifies the primary election dates to be in line with recent changes to state law. **(Citywide)** – Ordinance No. 5543
- *6-d. Amending Chapters 3, 4, 8, 22, 30, 31, 33, 69, 86, and 87 of Title 11, the Zoning Ordinance of the Mesa City Code by adding design standards; landscaping requirements for open space; adding definitions; making minor technical changes with regard to section references in the Chapters; and adding requirements removed from Chapters 5, 6, and 7, such as corral fencing and landscape yard requirements. **(Citywide)** – Ordinance No. 5544

Staff Recommendation: Approval

P&Z Board Recommendation: Approval (5-0)

- *6-e. ZON19-00514 (**District 1**) Within the 2500 block of North Harris Drive (east side). Located west of Gilbert Road and north of McKellips Road (9.3± acres). Rezone from AG to RS-15-PAD; and Site Plan Review. This request will allow for the development of a single-residence subdivision. Rob Stephan, Excolo Development, applicant; PBL, LLC and ALO Investments, LLC, owner. – Ordinance No. 5545

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 7-0)

- *6-f. ZON19-00473 (**District 6**) Within the 3100 block of South Eastridge (east side). Located south of Guadalupe Road and east of Hawes Road (4.2± acres). Rezone from RS-6 to RM-2 PAD; and Site Plan Review. This request will allow for the development of a multi-residence development. Sean Lake, Pew and Lake, P.L.C., applicant; James Render, owner.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Vote for approval failed (Vote: 2-3)

To be continued to a future City Council meeting.

7. Take action on the following subdivision plats:

- *7-a. "Towns at Eastmark" (**District 6**) Located Within the 9800 through 9900 blocks of East Point Twenty-Two Boulevard (north side) and within the 4600 block of South Eastmark Parkway (west side). Located north of Ray Road and East of Ellsworth Road (±8.8 acres). Lennar Arizona, Inc., developer; Thomas E. Granillo, Hoskin Ryan Consultants, Inc., surveyor.

Items not on the Consent Agenda

4. Take action on the following contracts:

- 4-n. Mesa City Center - Second Guaranteed Maximum Price (GMP No. 2) - ASU @ Mesa City Center. (**District 4**)

This GMP for site preparation and structure work for ASU @ Mesa City Center is the second of a series of GMP's relating to City Center work. The scope of work includes removal of existing improvements within the new building footprint, excavation of the building site, preparation of the building pad, foundations, and the concrete structure of the building.

Staff recommends awarding the contract for GMP No. 2 to the selected Construction Manager at Risk, DPR Construction, in the amount of \$16,117,229, and authorizing a change order allowance in the amount of \$805,861.45 (5%), for a total amount of \$16,923,090.45. This project is funded by the Economic Investment Fund and Excise Tax Bonds.

It was moved by Councilmember Luna, seconded by Councilmember Heredia, that the contract be approved.

Upon tabulation of votes, it showed:

AYES – Giles-Duff-Heredia-Luna-Thompson

NAYS – Whittaker

ABSENT – Freeman

Mayor Giles declared the motion carried by majority vote of those present.

5. Take action on the following resolution:

- 5-f. Approving and authorizing the City Manager to enter into a Third Amendment to the Lease Agreement with Option to Purchase with Benedictine University, for City-owned property generally located at 225 East Main Street. The Third Amendment extends the term of the lease by ten years, provides for reduction of Premises Rent, through Year 15 of the Lease, extends the Purchase Option to Year 21, and establishes the City's and Benedictine University's responsibilities related to the design and build-out of approximately 10,000 square feet to support the partnership between Benedictine University and CO+HOOTS. **(District 4)** – Resolution No. 11440

Downtown Transformation Manager Jeff McVay introduced Kevin Broeckling, Chief Executive Officer of Benedictine University Mesa; Odeen Domingo, president of CO+HOOTS; and Jenny Poon, founder of CO+HOOTS. He explained the purpose of the Third Amendment to the Lease Agreement with Benedictine University is to adjust the rental rates to allow increased enrollment opportunities through expanded programs, increased faculty and the build-out of Gillett Hall in support of the innovative partnership between Benedictine University and CO+HOOTS to create entrepreneurial programs.

Mr. Broeckling stated Benedictine's heritage is 1,500 years old; educating students in Illinois for 140 years and in Mesa for the last six years. He added the Mesa campus annual budget is over \$10 million and have provided \$4.5 million in scholarships to students from 23 states and seven countries. He emphasized Benedictine offers an education with values that focuses on the greater good. He added he is grateful for the support from the City of Mesa and for the innovative partnership with CO+HOOTS.

Mr. Domingo discussed CO+HOOTS impact in Phoenix and did not consider expansion into other communities until Councilmember Whittaker approached them about Mesa and they were able to see the vision of where Mesa is headed. He expressed excitement in bringing entrepreneurial resources and programming to Benedictine University students and the East Valley.

Ms. Poon stated that Mesa is a community with values aligned with Benedictine University and CO+HOOTS. She added while the process has been long, the time has been spent developing and redefining the program. She thanked Council for their support.

Councilmember Whittaker welcomed CO+HOOTS to Mesa, stating their moral standards and building sustainable communities with culture is a great fit for Mesa.

Councilmember Duff thanked CO+HOOTS for choosing Mesa and partnering with the community.

Councilmember Luna thanked Mr. Broeckling for his leadership at Benedictine University and working with CO+HOOTS to move the university forward.

Mayor Giles thanked Benedictine University and CO+HOOTS for making the partnership happen and looks forward to the outcome.

It was moved by Councilmember Luna, seconded by Councilmember Duff, that Resolution No. 11440 be adopted.

Upon tabulation of votes, it showed:

AYES – Giles-Duff-Heredia-Luna-Thompson-Whittaker

NAYS – None

ABSENT – Freeman

Mayor Giles declared the motion carried unanimously by those present and Resolution No. 11440 adopted.

8. Discuss, receive public comment and take action on the following ordinance:

- 8-a. Amending Title 6, Chapter 11, Sections 1 through 8, 10 through 14, and 21 through 23 of the Mesa City Code relating to smoking regulations and healthier smokefree environments by adding vaping. The amendment adds the prohibition of vaping and the use of vaping products in public facilities, public places, and certain places of employment. **(Citywide)** – Ordinance No. 5547

Deputy City Manager Natalie Lewis explained in 1996 the City of Mesa passed the Smoke-free Environment Ordinance which prohibits smoking in public facilities and public gathering spaces. She stated staff would like to amend the ordinance to include vaping and vaping devices to be treated the same as smoking and cigarettes due to public concerns with the increase in youth vaping, the health issues associated with vaping and secondhand exposure. She pointed out the purpose of the ordinance is not to take away an individual's choice to use vaping and vaping devices as an alternative to cigarettes. She advised that staff is working on minimizing the impacts to existing businesses and is requesting a six-month time period before the ordinance takes effect.

Craig Larson, a 14-year Mesa resident and vaping business owner, stated he is the president of Arizona Smoke Free Business Alliance (ASFA) but is speaking on behalf of his business. He described treating vaping smoke the same as tobacco smoke is not a position backed up by facts, adding the dangers are not from FDA-regulated products being sold by reputable businesses but from illegal black-market THC products containing added chemicals. He remarked the proposed workplace restrictions in the ordinance are critical to conducting business and will cause many current businesses to fail. He expanded by saying youth vaping can be addressed without hurting Mesa's vaping businesses and requested that Council withdraw the proposed ordinance in order to gather more information and come up with additional alternatives.

In response to a question from Councilmember Whittaker, Mr. Larson stated his business is located on Power Road and Southern Avenue in Mesa and employs approximately 27 individuals.

In response to a question from Councilmember Thompson, City Attorney Jim Smith explained the definition for a tobacco and vaping shop.

In response to a question from Mayor Giles, Deputy Director of Development Services John Sheffer clarified a business owner could classify the whole building as smoking and not need any separate ventilation system.

David Morris, a Phoenix resident and vice president of the ASFA, commented there is confusion throughout the ordinance and would request the vote be delayed to allow additional time to work with staff to achieve a better understanding of the ordinance.

Gibson McKay, a Phoenix resident representing the ASFA as well as the National Vapor Technology Association, indicated support for a delay to seek clarity regarding the ventilation system changes because this is an after-the-fact regulation change. He clarified ASFA is not in opposition to the ordinance but is looking for clarification.

In response to a question from Councilmember Luna, Ms. Lewis confirmed the next six months will be spent reaching out to the public and business owners to clarify the wording in the ordinance. She stated the proposal of adding vaping to the existing ordinance was to simplify the process because current businesses are familiar with the smoking ordinance. She discussed how the requirement for additional ventilation for certain types of businesses has existed for a long period of time and is not new to this ordinance.

In response to a question from Mayor Giles, Mr. Sheffer reported it is typical for businesses to have independent heating, ventilation and air conditioning (HVAC) systems and there is nothing in the ordinance that would require a normal business to install a separate system. He responded ventilation requirements for different uses are contained in the building codes.

Ms. Lewis explained the two types of vape shops as a retail store where customers sample and purchase products, and a vape lounge, which is a more intense atmosphere where customers stay for longer periods of time and could possibly require additional circulation.

In response to a question posed by Councilmember Whittaker, Ms. Lewis remarked staff is asking Council to approve the ordinance with an effective date in six months.

In response to a question from Councilmember Whittaker, Mr. Smith indicated he was unclear what the previous speaker was suggesting but the definition of a tobacco or vaping shop includes language stating 90% of the gross annual income must be derived from vaping or tobacco products; adding another section talks about needing a separate ventilation system in order to vape or smoke indoors.

Brian Calaway, a Mesa resident, voiced his opinion that the definition of vaping is not clear and that the process of vaping is similar to systems such as fog machines, mosquito foggers and driving cars that dispense vapor into the air.

For the record, Mayor Giles acknowledged that speaker cards were received from the following individuals in opposition to the ordinance:

Ronald J. Beneduce	A Phoenix resident
Sean Dahn	A Mesa resident
Dorene Luna	A Mesa resident
Chad Wilson	A Mesa resident
Dustin Estrada	A Mesa resident
Corey Obenour	A Queen Creek resident

Councilmember Thompson agreed there is confusion and feels it would be best to allow more time for business owners to understand what the requirements are and come to an amicable solution to fit the needs of the businesses and the community.

Mayor Giles discussed the presentation from Amanda Wheeler, vice president of Rocky Mountain Smoke-Free Alliance, at a previous meeting expressing support for the ordinance with the only concern being any extraordinary investments for ventilation. He added those concerns should be alleviated with the information provided by staff.

Councilmember Whittaker spoke in opposition to the ordinance, wondering if vaping is a better alternative to smoking tobacco. He questioned whether the use of tobacco has decreased by the increase of vaping. He commented more clarification is needed before changing the ordinance.

Councilmember Luna indicated support for the ordinance, stating smoking or vaping nicotine is highly addictive, increases blood pressure, the heart rate and heart disease and that e-cigarettes contain higher doses of nicotine. He emphasized the vape flavoring attracts children which can harm the developing brain, cause mood disorders, impairment of attention and lowered impulse control.

Mayor Giles encouraged citizens to watch the rebroadcast of the vaping presentation given at the study session by Maricopa County Health Department employees. He clarified the ordinance is not banning vaping, but imposing restrictions to cut down secondhand vapors to the public.

Councilmember Duff addressed Mr. Calaway and stated the ordinance is regulating tobacco and e-cigarettes only. She clarified that a tobacco or vaping shop is defined as a retail business and a wholesale business does not fall under this ordinance. She declared the ordinance is to protect public areas from secondhand smoke or vapors.

In response to a question from Vice Mayor Freeman regarding Valley municipalities that have enacted similar vaping ordinances, Mr. Smith advised Tempe, Chandler, Gilbert and Goodyear have adopted vaping ordinances.

It was moved by Councilmember Luna, seconded by Councilmember Heredia that Ordinance No. 5547 be adopted.

Upon tabulation of votes, it showed:

AYES – Giles-Freeman-Duff-Heredia-Luna

NAYS – Thompson-Whittaker

Mayor Giles declared the motion carried by majority vote.

10. Items from citizens present:

There were no items from citizens present.

11. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:52 p.m.

JOHN GILES, MAYOR

ATTEST:

DEE ANN MICKELSEN, 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 9th day of December 2019. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

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