

COUNCIL MINUTES

December 1, 2021

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 December 1, 2021, at 4:00 p.m.

COUNCIL PRESENT

John Giles
Jennifer Duff
Mark Freeman
Francisco Heredia
David Luna
Julie Spilsbury
Kevin Thompson

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Dee Ann Mickelsen
Jim Smith

Mayor Giles conducted a roll call.

1. Convene an Executive Session.

It was moved by Councilmember Luna, seconded by Councilmember Thompson, that the Council adjourn the Study Session at 4:00 p.m. and enter into an Executive Session.

Upon tabulation of votes, it showed:

AYES – Giles-Freeman-Duff-Heredia-Luna-Spilsbury-Thompson
NAYS – None

Carried unanimously.

- 1-a. Discussion or consultation for legal advice with the City Attorney. (A.R.S. §38-431.03A (3)) Discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, discipline, dismissal, or resignation of a public officer, appointee, or employee of the City. (A.R.S. §38-431.03A (1))

1. Interviews of the following City Clerk candidates:

- a) Agnes Beltran-Goodwine
- b) Linda Mendenhall
- c) Holly Moseley

2. Reconvene the public meeting and provide direction on the candidate to be nominated for the position of City Clerk.

At 5:44 p.m. the Executive Session adjourned, and the Council reconvened their regular meeting.

It was moved by Councilmember Spilsbury, seconded by Councilmember Thompson, that Holly Moseley be nominated to fill the position of City Clerk.

Upon tabulation of votes, it showed:

AYES – Giles-Freeman-Duff-Heredia-Luna-Spilsbury-Thompson

NAYS – None

Carried unanimously.

Mayor Giles thanked the candidates for applying and congratulated Ms. Moseley on the appointment.

3. Review and discuss items on the agendas for the December 1 and December 8, 2021, Regular Council meetings.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items removed from the consent agenda: 6-f

In response to a question from Mayor Giles related to Item 6-f, **(Amending Title 5 of the Mesa City Code (Business Regulations), Chapter 4 entitled “Mobile Food Vendors” to exempt mobile food vendors who are operating at special events from licensing requirements on a limited basis, and to modify requirements for the location of mobile food vendor operations, including distance requirements and related exemptions for operation in or near areas zoned for residential use, effective March 1, 2022. (Citywide))**, on the December 1, 2021, Regular Council Meeting agenda, Licensing & Revenue Collections Administrator Tim Meyer displayed a PowerPoint presentation. **(See Attachment 1)**

Mr. Meyer reminded Council of the mobile food vendor license exemptions which include being involved with a special event with the City or event approved through Parks, Recreation, and Community Facilities (PRCF), and is limited to four events per year. (See Page 2 of Attachment 1)

Deputy City Attorney Kelly Whittemore outlined the two major pieces of the ordinance being amended which are to waive the license fee if the vendor participates in less than four events per year and have an updated annual fire inspection, if required.

In response to several questions from Mayor Giles, Ms. Whittemore explained the changes in the ordinance apply specifically to mobile food units and is in addition to the licensing requirements for mobile food units. She clarified the mobile food license is separate from a special event license. She mentioned the current code states a mobile food unit is not allowed to operate within 25 feet of a residential area and the ordinance will amend the distance to 250 feet to be more in line with the state statute. She added there are exceptions for individual one-time events.

City Manager Christopher Brady discussed the 250 feet amendment, which allows the flexibility to create exceptions for issues that arise.

Responding to a question from Councilmember Spilsbury regarding who will handle the site plan work, Mr. Brady explained Mr. Meyer and the Planning Department would be responsible to come up with a site plan that works with the neighbors.

Mr. Brady elaborated when new ordinances are adopted, the initial step is education, and enforcement would only come in the event of non-cooperation from a food truck owner after warnings and education.

Councilmember Spilsbury expressed concern that Mesa is putting out a message of being against food trucks and wants to make sure the City is proactive regarding education and outreach to explain the meaning of the ordinance to avoid hurting small businesses.

Mayor Giles remarked that the ordinance more closely follows state statute and the model ordinance. He continued by saying Mesa is trying to be more friendly to food trucks than other jurisdictions by adding the exceptions.

In response to multiple question from Councilmember Freeman, Mr. Meyer explained a vendor that will have four or less events per year will be exempt from the license. He reported the timeline to receive the license is approximately six to eight weeks because of the background check. He commented tracking will mainly be done through the fire inspection process; however, for a particular event, a vendor list is provided, and staff will verify compliance. He advised he will have to check on the citation amount if enforcement becomes necessary.

Responding to a series of questions from Councilmember Heredia, Mr. Meyer stated the language "limited to four special events per year" is not part of the statute but is unique to Mesa and is geared towards educating vendors. He explained other cities may have different regulations.

Mr. Meyer stressed the safety portion, adding if an annual fire inspection is required, the vendor will have to provide proof of an inspection from another city within Arizona or will have to go through the Mesa Fire Department to get the certification.

In response to a question posed by Mayor Giles regarding the timeline for a fire inspection, Mr. Meyer estimated a fire inspection can be done within a week or two by contacting the Fire Department to set up the inspection. He stated vendors should be aware of the fire inspection requirement because it is mandatory in the state regulation.

In response to an inquiry from Mayor Giles relating to Item 11-b, **(A resolution approving the continuation of the Mesa Town Center Improvement District No. 228 for an additional five years. (District 4))**, on the December 8, 2021, Regular Council Meeting agenda, Downtown Transformation Manager Jeff McVay advised Council every five years the City must renew the Improvement District in order to keep it operating. He noted there are no changes to the District at this time and is only a continuation with the understanding that the City will be working with the Downtown Mesa Association (DMA) and property owners over the next several months with the intention of coming back to Council next year with an update to the assessment and zone structure.

In response to a question from Mayor Giles, Nancy Hormann, DMA president and executive director, explained the best part of approving the five-year extension of the District is that even if there are not enough votes to expand later, the District will remain intact; however, if action is not taken to continue the District, the District will terminate.

Responding to a question posed by Councilmember Thompson regarding what the pros and cons are of approving the DMA District, Mr. McVay pointed out one con if the District is terminated is the work that Ms. Hormann does for Downtown Mesa will revert to the City, including keeping Downtown clean and safe, dealing with graffiti, the parking enforcement, and the Downtown Ambassador Program. He remarked the DMA's current budget is approximately \$900,000, adding he is unsure what the costs would be for the City to handle in-house and can only assume the cost would be higher.

Mr. Brady elaborated the theory behind business improvement districts is the City continues to provide the base level services and the District creates an agreed-upon assessment by the majority of the property owners to provide the enhanced level of service within the area.

In response to an inquiry from Vice Mayor Duff regarding Item 6-c, **(Authorizing the City Manager to enter into a Sixth Amendment to the Development Agreement, a First Amendment to the Amended and Restated Ground and Air Lease, and a First Amendment to the Amended and Restated License Agreement for the development commonly known as The GRID, a project on City-owned property, generally located at the southwest corner of Main Street and Pomeroy at 233 East Main Street and 34 South Pomeroy and granting an option to purchase the associated land and air rights. (District 4))**, on the December 8, 2021, Regular Council meeting agenda, Mr. McVay stated the amendment is to extend compliance dates for the completion of construction, which includes a purchase option to allow the developer to purchase the property and the air rights above the garage immediately following completion of the project for \$7 million. He remarked this is a good solution to the developer's financial challenges that arose due to the pandemic. He added another change included a minor modification to the licensing agreement to align the parking space licensing with the construction schedule.

City Attorney Jim Smith pointed out the change on the option to purchase after completion of construction is similar to the concept that was initially adopted with the long-term lease as a way to ensure completion of the project.

Mr. McVay stated the amendment has provisions where the developer must post a letter of credit or place a determined amount of money in an escrow account in favor of the City; and in the event that the project does not meet compliance and construction stops, the City will have the funds available to restore the property to its original condition.

Councilmember Freeman expressed concern about having enough funding to cover demolition in the worst-case scenario that the project is not completed.

Mr. Brady agreed with Councilmember Freeman and remarked the priority would be getting the street and parking lot back.

Mr. McVay mentioned there are provisions built into the agreement that will not allow the developer to move forward with the next phase of construction until a certain level of completion is achieved with the current phase, as well as a portion of the roadway improvements. He spoke about the structural enhancements that are needed for the garage to be able to support the four-story building and his recommendation would be not to remove the enhancements because of the improved value brought to the garage and will give the City the ability to seek out additional opportunities.

In response to a question from Councilmember Thompson regarding Item 13, **(Conduct a public hearing and take action on the following ordinances adopting modified City-owned utility terms/rates/fees/charges)**, on the December 8, 2021, Regular Council meeting agenda, Energy Resources Department Director Frank McRae introduced Energy Resources Program Manager Anthony Cadorin and stated the City is constantly looking at both the short-term and long-term markets to evaluate the City's position. He remarked Energy Resources is transitioning from looking at conventional resources in the power supply contracts to longer term renewable contracts, adding the key component that will allow control of costs over time will be the investment in generation assets within the electric service area. He reported the long-term gas contracts are hard to find and would have to go through a procurement process to find a company willing to sell gas on a long-term basis.

Mr. Cadorin elaborated that adding the generator, hydro, and solar electric sources together, within five to ten years 50% to 60% of the City's contracts will be long-term hedged. He said the City is looking at a municipal prepaid deal, which are very long-term gas deals with a substantial discount.

In response to an additional question posed by Councilmember Thompson regarding whether it would make more sense to look at conventional and less renewable sources since the technology is not quite there, Mr. McRae advised most of conventional resources looking forward are natural gas-fired and any volatility in terms of supply and price on the natural gas side will flow through to the natural gas prices. He continued by saying the City will be able to hedge and enter into long-term agreements to stabilize the costs. He added the costs for long-term solar agreements are very low compared to conventional resources and the key is finding a viable project.

In response to a question from Vice Mayor Duff regarding Item 5-e, **(Purchase of Two Street Sweepers (Replacements) for the Transportation Department (Citywide))**, on the December 8, 2021, Regular Council meeting agenda, Transportation Department Director RJ Zeder indicated a street sweeper has a lifecycle of approximately 10 years because of the heavy use. He mentioned there is at least one heavy duty street sweeper on the market that several cities have purchased and is twice the cost. He asked for the opportunity to reach out to the other cities to hear their experience. He stated the other consideration is having the infrastructure to be able to charge a large vehicle, which is currently not available in Mesa. He indicated Transportation is supportive of looking at alternative vehicles.

Vice Mayor Duff said a complete analysis needs to be done for comparison and inquired about the size of the street sweeper fleet.

Mr. Zeder reported he would work with the fleet staff to gather the information on the cost of the maintenance for a traditional diesel. He said the fleet has approximately one dozen sweepers. He advised the City contracts out for arterial streets, but the local streets are swept on a four-week cycle. He suggested if the City decides to invest in electric infrastructure, the East Mesa Service Center is an appropriate location because of the growth in the city.

In response to a question from Vice Mayor Duff regarding Item 9-b, **(A resolution approving and authorizing the City Manager to enter into a Development Agreement relating to 25 +/- acres of property located at the northwest corner of East Elliot Road and South Signal Butte Road for the primary purpose of prohibiting certain land uses. (District 6))**, on the December 8, 2021, Regular Council meeting agenda, Planning Director Nana Appiah stated the project is located across the street from the Apple facility in the Elliot Road Tech Corridor and the reason for the restricted use is to ensure the development is consistent with the goals for the Tech

Corridor. He explained one of the restrictions is limiting the amount of storage and warehousing uses.

Mayor Giles thanked staff for the presentations.

4. Take action on the following:

- 4-a. Appointments to the Human Relations Advisory Board, Museum and Cultural Advisory Board, and Transportation Advisory Board.

It was moved by Councilmember Freeman, seconded by Councilmember Thompson, that the Council concur with the Mayor's recommendations and the appointments be confirmed. **(See Attachment 2)**

Upon tabulation of votes, it showed:

AYES – Giles-Duff-Freeman-Heredia-Luna-Spilsbury-Thompson
NAYS – None

Carried unanimously.

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

- 5-a. Transportation Advisory Board meeting held on September 21, 2021.

In response to a question posed by Councilmember Thompson regarding the five-to-six-month lag on receiving crash data from the Arizona Department of Transportation (ADOT), Mr. Zeder stated he would need to get back to Council on the process for receiving the crash data. He acknowledged the bulk of crash data comes from ADOT because that is where the reports are ultimately filed and maintained. He said staff work closely with PD and the traffic unit for one-off requests.

Councilmember Thompson stressed other methods should be explored to figure out a way get the information real time from PD.

Mr. Zeder shared that Transportation is advertising for a shared traffic analyst position, which will assist in having immediate access to information.

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

Upon tabulation of votes, it showed:

AYES – Giles-Duff-Freeman-Heredia-Luna-Spilsbury-Thompson
NAYS – None

Carried unanimously.

6. Current events summary including meetings and conferences attended.

Vice Mayor Duff –	Whitman Park tree planting Green Business Program video – Local First Citizens of the Year – Vern Mathern and Dawn Giles
Councilmember Thompson –	Tour of Yuma Proving Grounds.
Councilmember Spilsbury –	Thanksgiving United Food Bank food distribution Merry Main Street tree lighting ceremony Mayor’s live podcast event Elk Lodge #2656 - Java with Giles
Councilmember Freeman –	Mesa Historical Museum – Community BBQ
Councilmember Heredia –	Valley Metro light rail extension - signing ceremony District 3 toy drive for Banner Children’s Hospital

7. Scheduling of meetings.

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

Wednesday, December 8, 2021, 5:15 p.m. – Study Session

Wednesday, December 8, 2021, 5:45 p.m. – Regular Meeting

8. Adjournment.

Without objection, the Study Session adjourned at 6:49 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 Study Session of the City Council of Mesa, Arizona, held on the 1st day of December 2021. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

Mobile Food Vendor City Code Updates

Tim Meyer, Licensing & Revenue Collections Administrator

Kelly Whittenmore, Deputy City Attorney

November 18, 2021

New Mobile Food License Exemption: Special Events

- Operating at a Special Event that is either:
 - Licensed by the City and the Mobile Food Vendor is Identified on the Vendor List for the Special Event (MCC Title 5, Chapter 1), OR
 - In a City Park and Permitted (MCC Title 6, Chapter 10)
 - And Limited to 4 Special Events per Year
- And Mobile Food Unit is Current on Annual Fire Inspection

Existing License Requirements – No Changes

- Compliance with the Mesa Zoning Code
- Compliance with the Mesa Fire Code
- Annual Fire Safety Inspection
- Compliance with Right of Way Parking Requirements
- Litter Maintenance
- Compliance with Mesa Noise Regulations
- Compliance with Mesa Sign Restrictions
- Insurance Requirements

New Location Requirements: Area Zoned for Residential Use

- Current Requirement: Restriction on operating within 25 feet from a lot or parcel with a residence and few exceptions
- Suggested Change: Restriction on operating within 250 feet of an area zoned for residential use with more exceptions than current language
- Suggested change more closely mirrors Model Ordinance from the League of Arizona Cities & Towns

Exceptions to New Location Requirements:

Area Zoned for Residential Use

- The 250' separation requirement Does Not Apply if:
 - Operating on Private Property and Either:
 - Operation is Pursuant to a Council-Approved Ordinance or Resolution with a Site Plan or Development Agreement, OR
 - 3 or Less Mobile Food Units Operating at One Time and Mobile Food Units don't Operate on the Property More than 4 Times Per Year.
 - Operating at a Licensed/Permitted Special Event
 - Primarily Selling Ice Cream Novelties
 - Parked in Right-of-Way adjacent to Private Property and not more than 4 days per year.

- If directed by Council
 - Introduction: 12/1/2021
 - Consider Adoption: 12/8/2021
 - Effective: 3/1/2022

Questions and Direction

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December 1, 2021

TO: CITY COUNCILMEMBERS

FROM: MAYOR JOHN GILES

SUBJECT: Appointments to Boards and Committees

The following are my recommendations for appointments to City of Mesa Advisory Boards and Committees.

Human Relations Advisory Board – Eleven-member board including new appointments.

Reappointment(s):

Jared Smith, District 6. Mr. Smith is the West Coast Sales Manager with Knauf Insulation and a realtor with HomeSmart. He earned a bachelor's degree in business management and marketing from Kent State University. Mr. Smith is an active member of his community as a Habitat for Humanity volunteer, HOA board president and fundraiser for United Way and Providence House. His term expires June 30, 2023.

New appointment(s):

Rochelle Johns, District 1. Ms. Johns is a counselor at Transitions Counseling and Consulting. Ms. Johns earned a bachelor's degree in human resources from Fontbonne University in Clayton, Mo., and a master's degree in professional counseling from Grand Canyon University. She is the Founder and CEO of Black Women That Rock, Inc. and served on the City of Tempe Human Relations Commission. Her term expires June 30, 2023.

Museum and Cultural Advisory Board – Eleven-member board including new appointments.

Bradley Peterson, District 6. Mr. Peterson is an Educational Technology Trainer at Mesa Public Schools. He focuses on integrating technology into the curriculum as a tool for teachers and students to facilitate growth and achievement. He earned a bachelor's degree in elementary education and a master's degree in educational technology from Arizona State University. His term expires June 30, 2023.

Transportation Advisory Board – Eleven-member board including new appointments.

Daniel Laufer, District 2. Mr. Laufer earned his Emergency Medical Technician Certification at Mesa Community College, and he is currently an urban planning student at Arizona State University. He is a member of the Tillman-Scholar-Leadership Through Action Program and in 2019, created a Walkability Evaluation Tool for his honors thesis. His term expires June 30, 2023.