



City Council Report

Date: October 19, 2009
To: City Council
Through: Jack Friedline, Deputy City Manager
From: Daniel Cleavenger, Transportation Department Director
Subject: Advertising on Bus Shelters
Citywide

**Strategic
Initiatives**



Purpose and Recommendation

Per direction of the Community and Neighborhood Services Committee, the purpose of this report is to present findings related to advertising on bus shelters within the City of Mesa and seek Council direction to either pursue or reject this course of action.

Background

In 2008, Councilmember Higgins and Mayor Smith suggested that staff investigate opportunities to advertise at transit shelters. The first priority of this advertising was to provide additional shelters for Mesa citizens at no cost to the city. The benefits of advertising revenues coming back to the City were indicated to be a secondary benefit.

On August 27, 2009 staff presented preliminary information to the Community and Neighborhood Services Committee to gauge whether the Committee supported moving this item to the full Council for consideration. The Committee was generally supportive of an effort to bring additional transit shelters to Mesa, expressed some concern with creating advertising opportunities and possible aesthetic issues, and asked questions related to the ability of a private contractor to limit certain types of advertising, given first amendment issues.

In the end, the full Committee moved to forward this item to the full Council for further discussion and consideration.

Discussion

For the City of Mesa to legally advertise at transit shelters, several steps would have to take place. These steps include: 1) updating the sign ordinance to allow transit shelter advertising as an exception to the City's off-site sign prohibition, 2) drafting a Request for Proposals (RFP) to retain a contractor to provide the service; and 3)

implementing the program with the successful vendor.

Advertising of this nature is referred to as "off-site signage," because it is in public right-of-way and off of private property. For the last 20 years, the City of Mesa has been cautious not to change the off-site signage regulations because of their link to the regulation of billboards. However, more recently the 9th Circuit Court has agreed that ordinances that "carve out" exceptions for off-site transit advertising are reasonable, without impacting prohibitions on larger billboards. Staff believes that an updated ordinance can be crafted without impacting the existing prohibition on billboards, should this be the direction of the Council.

If the Council chooses to pursue transit shelter advertising, an RFP would be developed in such a way as to model the ones used by Phoenix and Chandler. Here's how the responsibilities would be divided:

City of Mesa	Advertising Vendor
<ul style="list-style-type: none"> • Identify shelter locations, restrictions, conditions of the shelter and placement 	<ul style="list-style-type: none"> • Install transit shelters and required amenities
<ul style="list-style-type: none"> • Authorize an exclusive agreement to install, maintain and sell advertising on transit shelters 	<ul style="list-style-type: none"> • Sell and install advertising at transit shelters
<ul style="list-style-type: none"> • Establish cleaning and maintenance routine 	<ul style="list-style-type: none"> • Clean and maintain the transit shelters
<ul style="list-style-type: none"> • Establish financial payment schedule 	<ul style="list-style-type: none"> • Provide payment to the City per the negotiated agreement

After an agreed upon time frame, the transit shelter with advertising would become the property of the City. At such time, the City could negotiate the advertising contract with an alternative vendor or have the option to extend the existing contract.

As it relates to the City's ability to limit commercial advertising, staff recommends following the existing Phoenix contract language, which has been in place for several years and includes two key elements: ensure that "the subject matter of all shelter advertising shall be limited to speech or graphic images which propose a commercial transaction;" and lists the standards provided below.

Advertising copy will not be allowed that:

1. Includes false, misleading or deceptive messages
2. Relates to an illegal activity
3. Contains explicit sexual materials, is obscene by City standards, or is material harmful to minors
4. Advertises the use of alcohol or tobacco products
5. Depicts violence and/or anti-social behavior
6. Includes language which is obscene, vulgar, profane or scatological
7. Relates to instruments, devices and items, products or paraphernalia which are

designed for use in connection with specified sexual activities.

In addition, the City shall retain the right to utilize all unsold advertising space at its sole discretion.

There are both potential benefits and drawbacks from advertising at transit shelters. Possible benefits include:

- the installation of transit shelters with little capital and no operating costs to the City,
- increased use and benefit of the transit system due to the increased shelters,
- unused advertising space may be used by the City, and
- a new revenue source to fund transit operations and capital improvements.

Experience in Chandler and Phoenix present the best benchmarks for potential advertising revenues. In 2008, Chandler had up to 100 shelters available for advertising. Income ranged from \$4,500 to \$7,000 per month. The City of Phoenix has 2,500 shelters and their contract includes 50% of net advertising receipts with a minimum guarantee of \$1.5 million per year.

Mesa currently has 219 transit shelters and 794 total bus stops. Annually, the City pays about \$150,000 for operation and maintenance of transit shelters. This includes cleaning, trash and graffiti removal and repairs.

The potential drawbacks of advertising include:

- increased visual clutter in the built environment,
- potential negative community response,
- First Amendment legal challenges,
- possible long-term maintenance responsibilities, and
- administrative costs for staff resources in Engineering, Real Estate and Transportation to manage the program.

Fiscal Impact

Pursuing advertising at transit shelters would initially require the City of Mesa to identify 50 to 100 bus stop sites (this is the amount that could be prepared within the year) and have Engineering and Real Estate staff prepare and design pads for the vendor to place new shelters with advertising. This initial work includes staff time to ensure sites are within the right-of-way, do not have underground utility conflicts, and time to design the concrete pads to ensure ADA accessibility. This engineering, design, and real estate acquisition would take about a year, and is estimated to cost approximately \$585,000 for 100 shelters. This is not currently funded. If this project is approved by Council, funds could be programmed in the FY 2010-11 budget and be ready after the sign ordinance is updated.

Once the program is in place, staff would expect it to generate a similar revenue stream as the City of Chandler, or approximately \$4,500 to \$7,000 per month. These

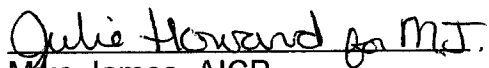
new shelters would not incur new operation and maintenance costs, as they would be maintained by the vendor.


Council Direction

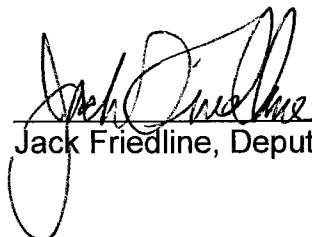
Staff is seeking Council direction on whether to pursue a program to allow advertising on transit shelters/furniture for up to 100 new or retrofitted shelters citywide. If Council approves, staff would need to develop a timeline that includes updating the sign ordinance for Council review and approval, as well as, drafting a Request for Proposals to allow a transit advertising program to commence. Revising the sign ordinance requires that a public hearing and recommendation be made by the Planning and Zoning Board before Council takes action on a possible ordinance amendment.

Coordinated With

Staff from Transportation, Planning, and Information Technology, have reviewed and concur with this report.


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