

COUNCIL MINUTES

May 21, 1998

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on May 21, 1998 at 5:45 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh*
Joan Payne
Wayne Pomeroy
Claudia Walters

COUNCIL ABSENT

None

POLICE OFFICER
PRESENT

David Klein

OFFICERS PRESENT

C.K. Luster
Neal Beets
Barbara Jones

*Mayor Brown informed the audience that Councilmember Kavanaugh is recuperating from recent surgery but will participate in the entire meeting through the use of telephone conferencing.

Invocation by Pastor Bob Shank, Covenant Community Church.

Pledge of Allegiance was led by Sarah Kennedy, Troop #451.

Presentation of the Don Cooper Award by Bob Evans, Mesa Public Safety Foundation.

Bob Evans, President of the Mesa Public Safety Foundation, commended recently retired Police Chief Lars Jarvie on his dedication, accomplishments and service to the City of Mesa and presented him with the Don Cooper Award as a token of the Foundation's appreciation.

Chief Jarvie expressed appreciation to Mr. Evans, the members of the Mesa Public Safety Foundation, the City Council and the citizens of Mesa for their support.

Presentation of the Historic Preservation Awards.

Mesa Historic Preservation Committeemember Victor Linoff introduced the members of the Committee present at the meeting and provided the Council and audience with brief background information on the various award recipients. Mr. Linoff commended everyone involved on their continuing efforts to improve and enhance the City of Mesa.

Mayor Brown and Vice Mayor Gilbert presented the following Historic Preservation Awards for outstanding achievement to the following individuals and congratulated them on their accomplishments:

- | | |
|---------------------------|--|
| * Mark and Candace Reeb | Restoration of the Strauch House |
| * Diane and Darwin Hughes | Adaption/Reuse of the Macdonald House |
| * Susie Sato | Volunteer efforts in historic preservation |
| * Lester "Truck" Dayton | Education achievement for his book, Truck's Home Plate |

Presentation of thank-you card from the Mesa Library employees.

Library Periodicals Supervisor Eleanor Thomas expressed appreciation to the members of the Council for their efforts and support regarding the recent expansion of the main Mesa Library building. Ms. Thomas presented the Council with a thank you card signed by employees of the Library and commented on the benefits of the expansion that will be realized by the citizens of Mesa.

Presentation of plaques to citizens ending their service on citizen advisory boards and committees.

Mayor Brown and Vice Mayor Gilbert presented plaques to 19 outgoing members of various citizen advisory boards and committees and thanked the citizens for their willingness to serve the City of Mesa.

1. Approval of minutes of previous meetings as written.

It was moved by Councilmember John Giles, seconded by Councilmember Pomeroy, that the minutes of May 1, 4, and 8, 1998 be approved.

Carried unanimously.

2. Consider the reappointments of three City Magistrates.

a. Presiding Judge Walter Switzer

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that the reappointment of Presiding City Magistrate Walter Switzer be approved.

Carried unanimously.

b. Judge Rebecca Standage

It was moved by Vice Mayor Gilbert seconded by Councilmember Giles, that the reappointment of Judge Rebecca Standage be approved.

Carried unanimously.

c. Judge Robin Allen

It was moved by Councilmember Pomeroy, seconded by Councilmember Walters, that the reappointment of Judge Robin Allen be approved.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Walters
NAYS -Kavanaugh-Payne

Mayor Brown declared the motion carried by majority vote. Mayor Brown congratulated the Judges on their reappointments.

2.1 Further discussion and consideration of the Council's December 19, 1997 decision concerning a due process hearing for the purpose of evaluating whether Judge Allen has violated provisions of the City's Personnel Rules.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that a formal Letter of Censure be placed in Judge Allen's file and that this Letter of Censure correspond to a draft of a document created by City Attorney Neal Beets.

Carried unanimously.

3. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified in these minutes with an asterisk (*) were approved with one Council action.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that the consent agenda items be approved.

Carried unanimously.

Mayor Brown advised that the following two agenda items, 4 and 4.1, will be combined and considered as one agenda item.

4. Conduct a public hearing on the 1998-99 annual assessments for the Mesa Town Center Improvement District No. 228.

Mayor Brown indicated that he had a potential conflict of interest in connection with the matter now under discussion (agenda items 4 and 4.1) which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Vice Mayor Gilbert indicated that he had a potential conflict of interest in connection with the matter now under discussion (agenda items 4 and 4.1) which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Councilmember Pomeroy indicated that he had a potential conflict of interest in connection with the matter now under discussion (agenda items 4 and 4.1) which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown yielded the gavel to Councilmember Giles during discussion of agenda items 4 and 4.1.

Councilmember Giles announced that this is the time and place for a public hearing regarding the 1998-99 annual assessments for the Mesa Town Center Improvement District No. 228.

Theresa Carmichael, President of the Mesa Town Center Corporation, provided the Council with brief background information relative to the creation and operation of Special Improvement District No. 228 and urged the Council to support the proposed annual assessments.

Joe "Brick" Guinn, a property owner in the Town Center area, referred to a copy of the original Mesa Town Center proposal and stated the opinion that the organization has failed to accomplish the Corporation's previously established objectives. Mr. Guinn spoke in strong opposition to the continuation of Special Improvement District No. 228 and urged the Council to eliminate the assessment.

In response to a question from Councilmember Payne, Mr. Guinn advised that his assessment totals \$375 annually and added that the only benefit he receives from the District is cleaning/maintenance services that are provided throughout the Town Center area.

Keno Hawker, 1364 West Escarpa, informed the Council that he has requested on five separate occasions that the Council allow the property owners in Special Improvement District No. 228 to cast their votes either for or against the continuation of the District. Mr. Hawker expressed the opinion that the current process is unfair and suggested that the Public Works Department be directed to update the District voting methods to ensure that citizens are provided the opportunity to participate in the voting process.

Bill Brando, 61 South Macdonald, stated the opinion that Special Improvement District No. 228 violates State law and added that the assessments are discriminatory and should be eliminated.

In response to questions from Councilmember Payne, City Attorney Neal Beets provided brief background information on the formation and operation of Special Improvement District No. 228.

Councilmember Payne expressed the opinion that the assessment District does not conform to State law and spoke in opposition to the continuation of the District.

Luule Brandofino, 61 South Macdonald, requested that the Town Center property owners be provided an opportunity to cast aye or nay votes on the continuation of the District and expressed appreciation to Councilmember Payne for her efforts to assist the business owners in that area.

There being no additional citizens wishing to speak on this issue, Councilmember Giles declared the public hearing closed.

4.1. Consider a resolution approving the 1998-99 annual assessments for the Mesa Town Center Improvement District – Resolution No. 7202.

The Mesa Town Center Improvement District provides enhanced municipal services for the Mesa Town Center.

It was moved by Councilmember Walters, seconded by Councilmember Kavanaugh, that Resolution No. 7202 be adopted.

Upon tabulation of votes, it showed:

AYES - Giles-Kavanaugh-Walters
NAYS - Payne
ABSTAIN - Brown-Gilbert-Pomeroy

Councilmember Giles declared the motion failed with three ayes, one nay, and three abstentions.

In response to a question from Councilmember Giles, Mr. Beets advised that Assessment District No. 228 is governed by State law which requires that an actual vote to approve, reject or modify the District must occur. Mr. Beets stated that in order for the Council to achieve a majority vote on this issue, which is defined in the

Mesa City Charter as four votes, those members who previously declared conflicts of interest, Mayor Brown, Vice Mayor Gilbert and Councilmember Pomeroy, are now required to cast their votes on this agenda item.

Councilmember Giles instructed the members of the Council to vote on the motion to approve Resolution No. 7202 which was made by Councilmember Walters and seconded by Councilmember Kavanaugh.

Upon tabulation of votes it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Walters
NAYS Payne

Councilmember Giles declared the motion carried by majority vote and Resolution No. 7202 adopted.

With action on this agenda item completed, Councilmember Giles yielded the gavel to Mayor Brown.

4.2 Consider a resolution authorizing the City Manager to execute the Disposition and Development Agreement with the Voit Development Co., Inc. for Site 21 (former Bank One Building) - Resolution No. 7203.

It was moved by Councilmember Pomeroy, seconded by Councilmember Giles, that Resolution No. 7203 be adopted.

Lee Rish, 48 West Main Street, the owner of Mesa Art 'n Framing Gallery, advised that on the previous day the Pepper Street parking area, which is located behind his business and contains 470 parking spaces, had 218 empty parking spaces. Mr. Rish added that there were 202 empty spaces in that parking lot this morning. Mr. Rish expressed the opinion that rather than building an additional parking structure behind the former Bank One Building, as proposed by the Voit Companies, an additional parking level should be added on to the Pepper Street garage.

Elma Milano, 38 West Main Street, the owner of Milano Music City, informed the Council that her business caters to approximately 1,000 young grade-school children who visit her establishment with their families and stay to shop in the Town Center. Ms. Milano noted that her business is the only one in the area that remains open until 9:00 p.m. and expressed concern with requiring the students and their families to walk to and utilize a dark parking garage once they leave her establishment. Ms. Milano stressed the importance of safeguarding the safety of the children and families in the Town Center area.

Tom Landry, 54 West Main Street, the owner of Dicksons' Jewelry, stated that elderly patrons of his business access his establishment from the rear of the building and would find it very difficult to park in a parking structure and walk to his place of business. Mr. Landry attributed a large measure of his jewelry store's success on the fact that rear parking and access is available. Mr. Landry indicated that he supports the addition of another parking level to the Pepper Street garage rather than the construction of an additional parking structure behind the former Bank One Building.

Mr. Bob Voit, President of the Voit Companies, expressed enthusiasm relative to developing a quality project in the downtown area. Mr. Voit informed the Council that substantial private investment dollars will be brought into the area as a result of the project. Mr. Voit stated that in his professional opinion, the construction of the parking structure is essential to attract high caliber tenants and ensure the overall success of the project. Mr. Voit indicated his willingness to work with the merchants in the Town Center area in an effort to develop mitigation measures to lessen the effects of the parking proposal on local businesses and ensure easy access to their establishments. Mr. Voit added that if the project is approved, he intends to postpone construction of the parking garage until the streetscape project has been completed.

Mayor Brown called for a vote on the motion.

Upon tabulation of votes it showed:

AYES - Brown-Gilbert-Giles-Payne-Pomeroy
NAYS - Kavanaugh-Walters

Councilmember Kavanaugh indicated his opposition to the motion and stated the opinion that the proposal will not result in maximum benefits to the City of Mesa. Councilmember Kavanaugh commented on the significant amount of funds the City will be required to invest and added that there are no guarantees that the desired tenant mix will be achieved.

Councilmember Walters stated that although she supports the renovation of the former Bank One Building, she opposes the development of a parking structure behind the building and for that reason she did not support the motion.

Mayor Brown declared the motion carried by majority vote and Resolution No. 7203 adopted.

(Mayor Brown declared a recess at 7:26 p.m. and the meeting reconvened at 7:50 p.m.)

5. Consider the following liquor license applications.

*a. SCOTT W. CROMER, EVENT CO-CHAIRMAN

Special Event License application of Scott W. Cromer, Event Co-Chairman, Arizona/Nevada Chapter Club Managers Association, a one-day fraternal event to be held Monday, June 1, 1998, from 10:00 a.m. to 7:00 p.m., at 660 W. Fairway Drive, Mesa Country Club.

*b. GARY WARD, AGENT

New Hotel-Motel License for Brandon's Restaurant & Lounge, 1640 S. Country Club Drive. The license previously held at this location by Eric Mackler, Agent, Sunstone Hotel Properties, Inc., will revert back to the State.

*c. MARK COVERT, AGENT

New Restaurant License for Sidekicks Steakhouse & Saloon, 6915 E. University Drive. The license previously held at this location by Thatcher Jones, Agent, Sidekicks, Inc., will revert back to the State.

6. Consider the following Bingo Application - Class A.

- *a. Discovery Point Retirement Apartments
Kathleen E. White, Manager
6210 E. Arbor Street
Mesa, Arizona 85206

7. Consider the following contracts.

- *a. Annual supply contract for automotive alternators, starters and generators as requested by Fleet Support Services.

The Purchasing Division recommends accepting the lowest overall bid by Northside ReBuilders Supply Inc. For annual purchases estimated at \$36,000.00.

- *b. Annual supply contract for drafting print paper for the Engineering Division.

The Purchasing Division recommends accepting the following complete low bids as follows:

Sections A and D to Scott Blueprint at \$51,428.82 plus 5.50% sales tax \$2,828.58 for a total of \$54,257.40 based on estimated requirements.

Section B to Xerox Engineering Systems at \$25,440.30 plus 5% use tax of \$1,272.01 for a total of \$26,712.31 based on estimated requirements.

Section C to CAD One, Inc. At \$12,522.50 plus 5% use tax of \$262.12 for a total of \$13,148.62 based on estimated requirements.

The combined award is \$94,118.33 based on estimated requirements.

- c. Replacement 911 Telephone System Equipment and Dispatch Consoles as requested by the Police Department.

The Purchasing Division recommends awarding two contracts as recommended by the evaluation teams. The recommended companies each achieved the highest evaluated score and also offered the lowest overall cost.

One contract would be awarded to Plant Equipment for 911 telephone system equipment at \$585,600.00, plus 5% use tax of \$29,280.00 and an extended warranty of \$182,665.00, for a total of \$797,545.00.

A second contract for dispatch consoles (workstations) in the 911 Center is recommended for award to Dispatch Products Company at \$255,823.00 plus 5% use tax of \$12,791.15 and an extended warranty of \$10,000.00 for a total \$278,614.15.

The combined award is then \$1,076,159.15.

Police Commander Dennis Donna and Public Safety Communications Administrator Joe Noce provided the Council and audience with a brief presentation on the anticipated benefits of the replacement 911 telephone system equipment and dispatch consoles.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Pomeroy, that the recommendation of staff be approved.

Carried unanimously.

- *d. One replacement Ladder Tender Fire Apparatus as requested by the Fire Department.

The Purchasing Division recommends awarding a contract to Becker Fire Equipment as recommended by the evaluation team at \$165,421.00 plus 5% use tax of \$8,271.05 for a total award of \$173,692.05.

- *e. One replacement SWAT Vehicle requested by the Police Department.

The Purchasing Division recommends awarding a contract to The Mattman Company at \$130,285.00 plus 5% use tax of \$6,514.25 for a total of \$136,799.25.

- *f. Thirty-two modular employee workstations as requested by the Public Works Department for the July/August office relocations within the City Plaza Building.

The Purchasing Department recommends authorizing purchase from the State of Arizona contract with Goodman's Inc. at \$98,496.23 including materials, design services, delivery, installation and applicable sales tax.

- *g. Mesa Southwest Museum Expansion, 54 North Macdonald Street.

This project involves construction of a new three (3) level addition of the Mesa Southwest Museum located at the northeast corner of Pepper Street and Macdonald Street.

Recommend award to low bidder, Achen-Gardner Companies, subject to a deduct change order of \$172,245.00. Revised contract award amount is \$4,499,255.00.

- h. Mesa Town Center Streetscape Improvements.

This project involves narrowing Main Street from three (3) lanes to two (2) lanes in each direction between Country Club Drive and Lewis Street, the installation of landscaping and lighting, and the replacement of utility lines.

Mayor Brown indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Vice Mayor Gilbert indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Councilmember Pomeroy indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown yielded the gavel to Councilmember Giles for action on this agenda item.

Joseph McGarry, 40 North Central, Phoenix, an attorney representing Achen-Gardner, a bidder on the project, stated the opinion that Achen-Gardner is the lowest satisfactory/qualified bidder and should be awarded the contract for this project. Mr. McGarry expressed the opinion that the other bidder on the project, Arcon, is not a qualified bidder, and should not be awarded the contract.

In response to a question from Councilmember Walters, City Attorney Neal Beets stated the opinion that based on the bidding results, the Courts would direct the City of Mesa to award to the lowest apparent bidder, Arcon. Mr. Beets added that the City has been involved in court actions of a similar nature in the past and stated that it has been made clear by the resulting rulings that in order to reject a bid because of imbalance, the City must prove just cause and prejudice to the City. Mr. Beets noted that since these findings have not been established, the contract should be awarded to the apparent low bidder, Arcon.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

AYES - Giles-Kavanaugh-Payne-Walters
NAYS - None
ABSTAIN - Brown-Gilbert-Pomeroy

Councilmember Giles declared the motion carried by majority vote.

With action on this agenda item completed, Councilmember Giles yielded the gavel to Mayor Brown.

8. Introduction of the following ordinances and setting June 1, 1998 as the date for the public hearing on these ordinances.

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- *a. Adopting "The 1998 Amendments to the City of Mesa Privilege & Excise Tax Code" by reference; establishing an effective date; providing for severability and providing penalties for violations.
- *b. Amending Title 1, Chapter 12 of the Mesa City Code, by adding Sections 1-12-3 and 1-12-6 to establish a default fee, a user fee and fees for collection costs for delinquent accounts for the City Court.
- c. Relating to neighborhood preservation and a housing code amending the descriptive title of Title 8, Chapter 6; amending Section 8-6-1(A); adding definitions to Section 8-6-2; amending Section 8-6-3(K); adding Section 8-6-3(U) to the Mesa City Code; and establishing a delayed effective date subject to the approval of the voters.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Walters, that the introduction of an ordinance relating to neighborhood preservation and a housing code be approved.

In response to a question from Councilmember Payne, Mr. Beets stated that should it be determined that the issue be placed on the ballot of a future election, the item would appear on the ballot of the November General Election to provide citizens an opportunity to decide whether a neighborhood preservation/housing code should be implemented in the City of Mesa. Mr. Beets estimated that the cost of a Special Election would be approximately \$100,000.

Councilmember Payne stated that previous citizen groups interested in pursuing various matters were advised that the issues did not warrant costly Special Elections. Councilmember Payne stated the opinion that this

issue should not be placed on the ballot of a Special Election and added that the matter could have been placed on the ballot of either the March Primary or the May General Election if the Council so desired.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Walters
NAYS - Payne

Mayor Brown declared the motion carried by majority vote.

9. Consider the following resolutions.

*a. Authorizing the City Manager to execute an Intergovernmental Agreement with the State of Arizona through its Department of Public Safety to enhance law enforcement services concerning the criminal activities of street gangs - Resolution No. 7195.

*b. Deleted.

*c. Authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and Maricopa County for Special Transportation services for the fiscal year 1998-99 - Resolution No. 7196.

*d. Authorizing the City Manager to execute an Agreement between the City of Mesa and Arizona Department of Public Safety on behalf of the Arizona Peace Officer Standards and Training Board, on behalf of the Arizona Regional Community Policing Institute for cooperative assistance for peace officer training pursuant to A.R.S. 11-951 - Resolution No. 7197.

*e. Extinguishing portions of five easements located at 2336 East Baseline Road, for Wingers Restaurant Resolution No. 7198.

These new easements have been dedicated and the old easements are no longer needed.

*f. Authorizing the City Manager to execute an Easement for Underground Irrigation to Salt River Project at Val Vista and Southern Avenue - Resolution No. 7199.

This easement is required for Salt River Project #RD-71972.

*g. Extinguishing a Public Utility Easement at 624 North Ashbrook Circle - Resolution No. 7200.

This easement is no longer needed.

h. Authorizing the execution and delivery of a Purchase Agreement, a Trust Agreement and an Obligation Purchase Agreement in connection with the financing of certain public improvements through the issuance of Excise Tax Revenue Obligations, Series 1998A; approving the issuance and sale of not to exceed \$10,700,000 Excise Tax Revenue Obligations, Series 1998A; approving an official statement relating to the Excise Tax Revenue Obligations, Series 1998A and authorizing the taking of all other actions necessary to the consummation of the issuance and sale of the Excise Tax Revenue Obligations, Series 1998A.

Mayor Brown indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Vice Mayor Gilbert indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Councilmember Pomeroy indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown yielded the gavel to Councilmember Giles for action on this agenda item.

Keno Hawker, 1364 West Escarpa, noted that the Council previously adopted agenda item 7h which awarded the contract for the Mesa Town Center Streetscape project and questioned whether the contract would be voided should this agenda item be defeated.

In response to questions and concerns expressed by Mr. Hawker, Assistant Finance Director Larry Woolf stated that the proposed financing is similar in nature to Municipal Development Corporation financing and has been utilized successfully by the City of Tempe and other communities. Mr. Woolf discussed the lower interest rates that are currently available and stated that the proposal as presented qualifies for tax exempt financing.

Councilmember Kavanaugh stated that the Council previously reviewed and discussed the proposal and unanimously agreed to support staff's financing recommendations.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

AYES - Giles-Kavanaugh-Walters
NAYS - Payne
ABSTAIN - Brown-Gilbert-Pomeroy

Councilmember Giles stated that the motion fails for lack of a majority vote.

In response to a question from Vice Mayor Gilbert, City Attorney Neal Beets stated the opinion that justification does not exist to warrant the removal of the previously declared conflicts of interest.

Councilmember Giles stated that consideration of this item will be continued to a future Council meeting.

With action on this agenda item completed, Councilmember Giles yielded the gavel to Mayor Brown.

- *i. Authorizing the execution and delivery of a Purchase Agreement, a Trust Agreement and an Obligation Purchase Agreement in connection with the financing of certain public improvements through the issuance of Excise Tax Revenue Obligations, Series 1998B; approving the issuance and sale of not to exceed \$7,300,000 Excise Tax Revenue Obligations, Series 1998B; approving an official statement relating to the Excise Tax Revenue Obligations, Series 1998B and authorizing the

taking of all other actions necessary to the consummation of the issuance and sale of the Excise Tax Revenue Obligations, Series 1998B - Resolution No. 7201.

10. Consider the following ordinances.

- *a. Increasing the speed limit to 45 miles per hour on Val Vista Drive from Pomegranate to the south City limits - Ordinance No. 3475.

It was moved by Councilmember Pomeroy, seconded by Councilmember Giles, that Ordinance No. 3475 be adopted.

Carried unanimously.

11. Consider providing for fluoridation of the City of Mesa's water supply.

Dr. Jonathan Wersbud, 1825-45 East Roosevelt, Phoenix, Director of the Maricopa County Department of Health, spoke in favor of fluoridation and stated that two-thirds of Maricopa County is presently drinking fluoridated water. Dr. Wersbud stated the opinion that the absence of fluoride in drinking water places children at risk of contracting dental disease and added that the addition of fluoride will remove the burden of costly dentist bills currently borne by parents. Dr. Wersbud requested that the Council approve the proposal to add fluoride.

Dr. Julie Tang, 3115 East Nance, representing the Arizona Department of Health Services and the Office of Oral Health, spoke in strong support of fluoridation. Dr. Tang advised that her office is charged with the responsibility of evaluating the dental needs of children and has concluded that at-risk children's tooth decay begins at the age of one. Dr. Tang stressed the importance of preventing tooth decay and commented on the positive benefits of fluoride.

Dr. Roger Livingood, 4212 North 16th Street, Phoenix, representing the U.S. Public Health Service, stated that should the Council approve increasing the levels of fluoride in Mesa's water system at this time, the benefits of that action on the Indian patients of the Phoenix Indian Medical Center who drink the water that flows through Mesa's lines, will not be evident until the next century. Dr. Livingood urged the Council to support this proposal which will assist in preventing dental decay and eliminate unnecessary expenses.

Maxine Scott, 1647 East Ivy Glen, a health professional with the Mesa Public School District, spoke in support of this agenda item and expressed the opinion that fluoride is consistent with the goals of Building a Healthier Mesa. Ms. Scott presented the Council with signed petitions in favor of this proposal and encouraged the Council to approve this measure.

Karen Christen, 1202 West Thomas, Phoenix, informed the Council that she teaches dental health at Phoenix College and stated that although she understands the concerns that many citizens have regarding the addition of fluoride into Mesa's drinking water supply, a majority of dental professionals are convinced that fluoride will help prevent tooth decay and decrease unnecessary dental costs.

Laurie Buckles, 559 West Laguna Azul, a dental hygienist, noted that she has witnessed the harmful effects of tooth decay on children who have not had the benefit of fluoridation. Ms. Buckles stated the opinion that the proposal is cost effective and constitutes a public health issue. Ms. Buckles requested that the Council vote to approve this agenda item.

Louis Stradling, 1214 East Greenway Circle, spoke in strong opposition to the addition of fluoride into the City of Mesa's water supply. Mr. Stradling informed the Council that he has conducted extensive research on

the negative effects of fluoride over the past forty years and highlighted a brief slide presentation relative to his findings. Mr. Stradling noted that the City of Mesa has never before passed a law which would require citizens to ingest a substance into his or her body and indicated opposition to the adoption of such regulations. Mr. Stradling commented that fluoride is a prescription drug and provided data and quotes from dental professionals regarding fluoride poisoning. Mr. Stradling requested that the Council vote to deny the proposal.

Utilities Manager David Plumb stated that the cities of Phoenix, Tempe, Glendale and Chandler have added fluoride to their water and added that the cities of Tucson, Scottsdale, Peoria and Flagstaff have not. Mr. Plumb reported that with the exception of Flagstaff, the cities that have not added fluoride to their water supply believe that their current fluoride levels are sufficient. Mr. Plumb briefly highlighted costs associated with the proposal.

Councilmember Giles noted that dental cavities in children are excessive in the City of Mesa and said that he was advised by a reputable dental professional that a dentist can determine by examining a child's teeth whether the child is a resident of Mesa. Councilmember Giles stated the opinion that no evidence exists to support allegations of health consequences as a result of the addition of fluoride into the City's water supply and commented that children growing up in Mesa should not be negatively impacted and suffer extensive dental decay.

It was moved by Councilmember Giles, seconded by Councilmember Kavanaugh, that staff be directed to increase the levels of fluoride in the City of Mesa's water supply to .7 parts per million gallons.

Councilmember Pomeroy stated the opinion that current fluoride levels in the City of Mesa are sufficient and should not be increased at this time.

Councilmember Payne stated the opinion that the care of children's teeth should be the responsibility of parents rather than government and added that the Council does not have the right to determine what substances will be placed in children's bodies. Councilmember Payne expressed strong opposition to the proposal and complimented Mr. Stradling on his presentation.

Mayor Brown questioned the appropriateness of government intervention regarding this matter and indicated that he would not support the motion.

Upon tabulation of votes, it showed:

AYES - Gilbert-Giles-Kavanaugh-Walters
NAYS - Brown-Payne-Pomeroy

Mayor Brown declared the motion carried by majority vote.

12. Consider the following appeal of a Design Review Board decision.

- a. **DR96-22** 6704 East Brown Road (north side). Alta Mesa Animal Hospital.

Design Review Board Decision: That the front facade be repainted a color chosen from Del Rey stucco color board or a color approved by Design Review Staff. (Vote 7 – 0.)

Design Review Boardmember Art Jordan provided the Council with a brief overview of this agenda item and explained that the project was approved but not executed in accordance with the stipulations for approval. Mr. Jordan stated that at some point after the building was constructed, the applicant was made aware that the building was not in conformance. Mr. Jordan noted that the applicant's request that he be allowed to leave the color of the fascia a bright yellow color was unanimously denied and the applicant has not initiated any action to rectify this situation and abide by the stipulations. Mr. Jordan added that it has come to the attention of the Boardmembers that roof-top mechanical equipment must also be screened in order to meet the requirements of the Design Review Board.

Neal Ferrington, the applicant, a Veterinarian and owner of Alta Mesa Animal Hospital, stated the opinion that the yellow color of the fascia is compatible with the surrounding area and added the color is bold and unique and reflects modern architecture. Mr. Ferrington requested that the Council reverse the decision of the Design Review Board and allow the fascia color to remain unchanged.

In response to questions from Vice Mayor Gilbert, Dr. Ferrington stated that he participated in the creation of the stipulations for approval and agreed to abide by them. Dr. Ferrington indicated that he was unaware of the fact that roof-top mechanical equipment is unscreened and said that he will correct this situation.

In response to a question from Councilmember Walters, Community Development Manager Wayne Balmer provided the Council with an overview of the Design Review Board process.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Pomeroy, that the decision of the Design Review Board be affirmed.

Carried unanimously.

13. Consider the following cases from the Planning and Zoning board and possible adoption of the corresponding Ordinances.

- *a. **Z98-1** The 5200 - 5400 blocks of East McKellips Road (south side). Rezone from M-1-DMP to R-3-DMP (25± acres). This case involves the development of a 396 unit apartment complex. Scott Homes, owner; Beus, Gilbert & Devitt, applicant. **CONTINUED FROM THE APRIL 20, 1998 COUNCIL MEETING. A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST. THE APPLICANT IS REQUESTING THIS CASE BE REFERRED BACK TO THE PLANNING AND ZONING BOARD.**

P&Z Recommendation: Approval With Conditions (Vote 5 - 2, Shipley and Zaharis nay).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first;
5. All street improvements and perimeter landscaping to be installed with its respective phase of construction;
6. Compliance with all requirements of the Design Review Board;
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (prior to the issuance of a building permit);

8. Written notice be provided to future residents, and acknowledgment received that the project is within one mile of Falcon Field Airport;
9. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db;
10. Removal of all billboards with the first phase of construction; and
11. Compliance with letter from the applicant dated March 27, 1998.

- *b. **Z98-3** The 5200 block of East McLellan Road (north side). Rezone from M-1-DMP to R1-6-PAD-DMP (22+ acres). This case involves the development of an approximately 126 lot residential subdivision. White Hawke Development Inc., owner; Beus, Gilbert, Devitt, applicant - Ordinance No. 3466.

P&Z Recommendation: Approval With Conditions (Vote 6 - 1 Boardmember Shipley voting nay).

1. Compliance with the letter to Spencer Krueger dated April 8, 1998 and the project narrative dated April 15, 1998 and as shown on the site plan, and elevations submitted, except as noted below;
2. Compliance with the Residential Development Guidelines;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. Compliance with all requirements of the Subdivision Technical Review Committee;
6. Owner granting an Aviation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit);
7. Written notice be provided to future residents, and acknowledgment received that the project is within one mile of Falcon Field Airport;
8. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db;
9. Of those homes backing up to Higley Road, a minimum of 50% are to be single story;
10. All elevations to have architectural detailing, product to be reviewed at the time of Subdivision Technical Review;
11. Provide at least one 24" box tree in the front yard of each cluster lot;
12. Retain or plant one row of citrus (24" box) along the McLellan frontage, not in the retention basin;
13. Provide one tree and three shrubs every 25' within the Higley Road right-of-way to be maintained by the homeowners association;
14. Provide a meandering sidewalk where possible on one side of the internal loop road with a landscape tract and street furniture; and
15. Provide enhanced pavement at the private drive entries accessing the cluster units.

- *c. **Z98-20** The 1700 block of South Power Road (west side). Site Plan Review (1.5 acres). This case involves development of a Kinko Copy Store and a future pad building. Park/Gibbs Development owner/applicant - Ordinance No. 3467.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below;

2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
 3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
 4. Recordation of cross-access and reciprocal parking easements (reference the location); and
 5. Compliance with all requirements of the Design Review Board.
- *d. **Z98-21** The northwest corner of Brown Road and 61st Place. Rezone from C-2 to O-S-PAD (3.21 acres). This case involves development of an office condominium. Leland Sycamore, owner; Design Management, applicant - Ordinance No. 3468.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. All street improvements and perimeter landscaping to be installed in the first phase of construction;
6. Compliance with all requirements of the Subdivision Technical Review Committee;
7. Recordation of cross-access and reciprocal parking easements;
8. Compliance with all requirements of the Design Review Board;
9. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan; and
10. All parking to be accessed from the circulation drives for the office complex.

- *e. **Z98-22** The northwest corner of Thomas Road and Power Road. Rezone from R1-9-DMP (Conceptual C-2) to C-2-DMP (8.7 acres). This case involves the development of a strip commercial center. AH Investments, owner; Steven Bauer, applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST. THE APPLICANT IS REQUESTING THIS CASE BE WITHDRAWN.**

P&Z Recommendation: Approval With Conditions (Vote 5 - 2, Boardmembers Shipley and Brock voting nay).

1. Compliance with the basic development as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. All street improvements and perimeter landscaping to be installed in the first phase of construction;
6. Compliance with all requirements of the Subdivision Technical Review Committee;
7. Compliance with all requirements of the Design Review Board;
8. All pad buildings to be architecturally compatible with the center;

9. Deletion of eastern most curb cut along Thomas Road;
10. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan and gas station;
11. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit); and
12. Provide an escape lane for the drive-through restaurant.

*f. **Z98-23** The 6000 block of East Arbor Avenue (south side). Rezone from C-3 to R-4 (1.2 acres). This case involves development of an assisted living facility. Ronald Genenbacker owner/applicant Ordinance No. 3469.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication whichever comes first;
5. Compliance with all requirements of the design Review Board; and
6. Review and approval of a Special Use Permit by the Board of Adjustment for an assisted living facility.

*g. **Z98-24** The 3200 through 3500 blocks of East McKellips Road (south of McLellan Drive). Rezone from R1-35-PAD-DMP to R1-35-PAD and modification of The Mesa NorthGrove DMP (160+ acres). This case involves development of a 168 lot subdivision. Steve Knappenberger, owner; Edmunds-Toll/Ralph Pew, applicants - Ordinance No. 3470.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with the Residential Development Guidelines with no limitations to perimeter two story homes;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. All street improvements and perimeter landscaping to be installed in its respective phase of construction;
6. Compliance with all requirements of the Subdivision Technical Review Committee;
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit);
8. Written notice be provided to future residents, and acknowledgment received that the project is within two miles of Falcon Field Airport;
9. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db;
10. In the cul-de-sac landscape islands, retain or plant at least one citrus (24" box);

11. In the front yards of lots greater than 35,000 s.f. retain or plant at least 5 citrus (24" box);
12. In the front yards of lots less than 35,000 s.f. retain or plant at least 3 citrus (24" box);
13. In the existing citrus area, along the side and rear yards of all lots, retain or plant one row of citrus (24" box);
14. Along the arterial frontages, retain or plant citrus (24" box) in citrus easements outside the subdivision wall and within the rear lots inside the subdivision wall - two rows in each;
15. Along the entire lengths of both McLellan Drive and 32nd Street, retain or plant at least one row of citrus (24" box) in a citrus easement outside the subdivision wall but not in the retention basin;
16. Provide product for approval by staff at the time of Subdivision Technical Review;
17. Provide additional traffic calming measures in the private collector road to be reviewed by the Subdivision Technical Review Committee;
18. Provide a deceleration lane along McKellips Road; and
19. Provide sidewalks or acceptable alternative, as shown on the applicant's site plan, from four cul-de-sacs to 32 Street to ensure pedestrian and bicycle connections.

- *h. **Z98-25** The northeast corner of Baseline Road and Superstition Springs Blvd. Site Plan Review (1+ acre). This case involves the development of a 12,000+ sq.ft. retail building. DMB, owner; Richard Moore, applicant - Ordinance No. 3471.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.); and
4. Compliance with all requirements of the Design Review Board.

- *i. **Z98-26** South of the southeast corner of Superstition Springs Blvd. and the Superstition Freeway. Site Plan Review (3+ acres). This case involves the development of a two-story office building. The Voit Companies, owner; Poliquin Kellogg Design Group, applicant - Ordinance No. 3472.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as shown on the site plan, and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.); and
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first; and
4. Compliance with all requirements of the Design Review Board.

- *j. **Z98-27** Part of the 1300 block of East Just Street (south side). Rezone from R-3 to R-3-PAD (4+ acres). This case involves the development of a 60 unit condominium project. NUPETCO Associates, owner; Robert Graham, applicant - Ordinance No. 3473.

P&Z Recommendation: Approval With Conditions (Vote 7 - 0).

1. Compliance with the basic development as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.); and
3. Compliance with all requirements of the Subdivision Technical Review Committee; and
4. Compliance with all requirements of the Design Review Board.

- *k. **Z98-28** Parcel M-1 of "Augusta Ranch." Rezone from R-2-DMP to R1-6-PAD-DMP (13+ acres). This case involves the development of a patio home subdivision. A.R. LLC, owner; The DeHaven Company, applicant - Ordinance No. 3474.

P&Z Recommendation: Approval With Conditions (Vote 6 – 1, Boardmember Shipley voting nay).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below;
2. Compliance with the Residential Development Guidelines;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;
5. Compliance with all requirements of the Subdivision Technical Review Committee;
6. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision may, prior to the issuance of a building permit);
7. Written notice be provided to future residents, and acknowledgment received that the project is within four miles of Williams Gateway Airport;
8. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db;
9. Lot 40 be deleted; and
10. At least 20 guest parking spaces be provided.

14. Consider the following subdivision plats.

- *a. "VONBEHREN SUBDIVISION" - The 6200 block of E. Hermosa Vista Drive (north side) 10 R1-6 single residence lots (2.74 acres) Joseph and Elizabeth VonBehren, developer; Clifford Engineers, engineer.
- *b. "AUGUSTA RANCH PARCEL 9" - The 9800 block of E. Neville Avenue (north side) 93 R1-7-DMP single residence lots (26.78 acres) A.R. Development L.L.C., developer; American Engineering Co., engineer.
- *c. "HIDDEN GROVES" - The 3500 block of East Dartmouth Street (south side) 33 R1-15-PAD single residence lots (17.63 acres) Hidden Groves, L.L.C. and NORCO Land Limited Partnership, developers; P.D.C. Engineers, engineer.
- *d. "EASTVIEW ESTATES" - The 1000 block of North Greenfield Road (west side) 23 R1-15-PAD single residence lots (18.84 acres) New American Builders Corporation, developer; Montgomery Engineering & Management, L.L.C., engineer.

15. Notice of Intention: To consider revising water and wastewater development fees, residential development fees, residential development taxes and adopting development fees for parks facilities, library facilities, cultural facilities, police facilities & equipment and fire facilities & equipment.

Mayor Brown advised that the Council reviewed the issue of fees and determined that previously proposed development fees were counterproductive and would negatively impact commercial and industrial construction within the City of Mesa. Mayor Brown stated that staff has analyzed this issue and developed recommendations. Mayor Brown added that this agenda item is an unbinding Notice of Intention.

Assistant to the City Manager Bryan Raines concurred with the Mayor's comments and reported that the Notice of Intention is required by State law and constitutes an announcement prior to the actual introduction of an ordinance. Mr. Raines added that currently developers who front on arterial streets participate in a 'sharing process' and are required to perform improvements. Mr. Raines explained that although the development fees for arterial streets will be eliminated, staff will continue the current practice of requiring improvements for developments that front on unimproved arterial streets.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Walters, that staff be directed to proceed with a Notice of Intention on this agenda item.

Carried unanimously.

16. Adjournment.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that the Regular Council Meeting adjourn at 9:31 p.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, 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 21st day of May 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1998

BARBARA JONES, CITY CLERK

