



## COUNCIL MINUTES

June 23, 2008

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on June 23, 2008 at 5:45 p.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Invocation by Pastor Tommy Foster, Harmony Community Baptist Church.

Pledge of Allegiance was led by Councilmember Kavanaugh.

Mayor's Welcome.

Mayor Smith welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

Councilmember Higgins stated that on behalf of the Council and staff, she would like to congratulate Mayor Smith and his wife Kim on their 30<sup>th</sup> wedding anniversary.

Recognize outgoing board and committee members.

Mayor Smith acknowledged the efforts and hard work of the citizens who have served on the City of Mesa's advisory boards and committees. Vice Mayor Jones announced the names of the individuals completing terms of service, at which time they were presented plaques by Mayor Smith.

Mayor Smith announced that on June 26, 2008, Assistant City Manager Debbie Dollar would be retiring from the City of Mesa. He expressed appreciation to Ms. Dollar for her many years of service to the organization and wished her well in her future endeavors.

Ms. Dollar commented that she has appreciated the opportunity to work and serve in the community that she calls home. She stated that she has enjoyed working under City Manager Christopher Brady's

leadership and noted that with his ongoing leadership and the Council's guidance, the City of Mesa "is in good hands." Ms. Dollar added that as a retiree and a citizen, she would like to extend her best wishes to the Council.

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.

Mayor Smith stated that citizens have requested that items 17a, 17b and 18c be removed from the consent agenda.

It was moved by Councilmember Somers, seconded by Councilmember Kavanaugh, that the consent agenda items, as amended, be approved.

Carried unanimously.

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

Minutes from the November 8, 2007; January 31, May 15, 19, 22 and 29, June 2, 5 and 19, 2008 Council meetings.

3. Conduct a public hearing concerning the Five-Year Capital Improvement Program for Fiscal Years ending 2009-2013.

Mayor Smith announced that this is the time and place for a public hearing concerning the Five-Year Capital Improvement Program for Fiscal Years ending 2009-2013.

There being no citizens present wishing to speak on this issue, Mayor Smith declared the public hearing closed.

4. Conduct a public hearing on the proposed Fiscal Year 2008-09 Budget Plan.

Mayor Smith announced that this is the time and place for a public hearing on the proposed Fiscal Year 2008-09 Budget Plan.

Mary Hartel-Smith, 220 North 22<sup>nd</sup> Street, urged the Council to continue funding the Ride Choice Program, which offers transit services to seniors and disabled citizens.

Mark Feliz, 1038 West Hillview Street, President of the East Valley Chapter of the National Federation of the Blind, stated that sight-impaired individuals would like to be afforded the same opportunities as everyone else to travel freely and independently throughout the community. He requested that the Council continue to fund transit services that assist the physically disabled community.

There being no further citizens present wishing to speak on this issue, Mayor Smith declared the public hearing closed.

5. Conduct a public hearing concerning district cooling, irrigation water, natural gas, reclaimed water, solid waste, wastewater and water rate components fees and/or service charges increases.

Mayor Smith announced that this is the time and place for a public hearing concerning district cooling, irrigation water, natural gas, reclaimed water, solid waste, wastewater and water rate components fees and/or service charges increases.

There being no citizens present wishing to speak on this issue, Mayor Smith declared the public hearing closed.

6. Take action on an ordinance and resolution modifying rates for district cooling as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4854 and Resolution No. 9284.

Mayor Smith stated that per the concurrence of his fellow Councilmembers, he would recommend that they take action on agenda items 6 through 13 with a single motion.

Leroy Eshelman, Jr., 1641 East Dana, voiced a series of concerns regarding the City of Mesa's Solid Waste Program. He inquired why the City does not more effectively promote recycling and yet allows Mesa's landfills to be filled with recycled items placed in black barrels. Mr. Eshelman also questioned the lack of enforcement relative to trash barrels remaining in the street days after black or blue barrel pickup has occurred. He further suggested that the City provide a credit to residents who recycle or charge a higher fee for black barrel pickup.

Deputy City Manager Jack Friedline provided a short synopsis of the City of Mesa's recycling program, which was instituted in 1993. He spoke regarding the black and blue barrel programs, the Household Hazardous Waste Collection event, and the fact that staff continues to research innovative recycling programs that have been implemented throughout the country. Mr. Friedline added that staff would be happy to meet with Mr. Eshelman to discuss in greater detail any concerns he may have regarding the Solid Waste Program.

Vice Mayor Jones noted that Mr. Eshelman was referring to those areas of the City in which residents do not take advantage of the recycling program and tend to fill their black barrels with recyclable items. He stated that perhaps greater public participation is needed so that such occurrences could be reported to staff and addressed at that time.

Mayor Smith acknowledged that until several months ago, he was unaware of the extensive nature of the City's Recycling Program. He stated that recycling is not only great for the environment, but also as more materials are recycled, the City and the community pay less in landfill fees.

It was moved by Councilmember Richins, seconded by Councilmember Somers, that Ordinance No. 4854 and Resolution No. 9284 (Item 6), Ordinance No. 4855 and Resolution No. 9285 (Item 7), Ordinance No. 4856 and Resolution No. 9286 (Item 8), Ordinance No. 4857 and Resolution No. 9287 (Item 9), Ordinance No. 4858 and Resolution No. 9288 (Item 10), Ordinance No. 4859

and Resolution No. 9289 (Item 11), Ordinance No. 4860 and Resolution No. 9290 (Item 12) and Ordinance No. 4861 and Resolution No. 9291 (Item 13), be adopted.

Carried unanimously.

7. Take action on an ordinance and resolution modifying rates for natural gas utility services as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4855 and Resolution No. 9285.

(See Item 6 for Council action on this item.)

8. Take action on an ordinance and resolution modifying rates for water utility services as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4856 and Resolution No. 9286.

(See Item 6 for Council action on this item.)

9. Take action on an ordinance and resolution modifying rates for wastewater utility services as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4857 and Resolution No. 9287.

(See Item 6 for Council action on this item.)

10. Take action on an ordinance and resolution modifying rates for solid waste utility services as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4858 and Resolution No. 9288.

(See Item 6 for Council action on this item.)

11. Take action on an ordinance and resolution modifying the Terms and Conditions for the Sale of Utilities as recommended by the Audit & Finance (Approval. Vote: 3-0) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4859 and Resolution No. 9289.

(See Item 6 for Council action on this item.)

12. Take action on an ordinance and resolution modifying the fees and charges for Utility Customers as recommended by the Audit & Finance (Approval. Vote: 3-0) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4860 and Resolution No. 9290.

(See Item 6 for Council action on this item.)

13. Take action on an ordinance and resolution modifying the Utility Service Fees as recommended by the Audit & Finance (Approval. Vote: 3-0) and Transportation & Infrastructure (Approval. Vote: 2-0, Truitt absent) Committees – Ordinance No. 4861 and Resolution No. 9291.

(See Item 6 for Council action on this item.)

It was moved by Councilmember Higgins, seconded by Councilmember Kavanaugh, to recess the Regular Council Meeting and convene a Special Council Meeting for the purpose of approving the Budget and Five-Year Capital Improvement Program.

Carried unanimously.

(The Regular Council Meeting recessed at 6:20 p.m. and resumed at 6:27 p.m.)

14. Take action on the following liquor license application:

\*14a. Tilted Kilt

New Restaurant License for Tilted Kilt, 1910 South Gilbert Road, SBIG TKG LLC – Applicant, Randy D. Nations – Agent. The previous Restaurant License held at this location by Atomic 29, issued 01/08/2008, will revert back to the State. **(District 4)**

15. Take action on the following contracts:

\*15a. Three-Year Supply Contract for Optically Controlled Traffic Control Equipment for the Transportation Department, Traffic Engineering (Fire Bond Funding).

The Procurement Services Department recommends accepting the lowest, responsive and responsible bid from Global Traffic Technologies, LLC at \$191,050.73 annually, based on estimated quantities, including applicable use tax.

\*15b. Three-Year Supply Contract for Modified Asphalt Binder for the Transportation Department, Field Operations.

The Procurement Services Department recommends accepting the lowest, responsive and responsible bid from Wright Asphalt Product Co. at \$309,640.32 annually, based on estimated quantities, including applicable use tax.

\*15c. Dollar Limit Increase to the Supply Contract for Slurry Seal Sand for the Transportation Department, Field Operations Division (HURF Funded).

The Procurement Services Department recommends increasing the dollar limit of the contracts with Mesa Materials (primary) by \$85,000.00 to \$304,687.26, and A & A Materials (secondary) by \$25,000.00 to \$50,000.00, for a combined total of \$354,687.26 annually, including applicable sales tax, based on estimated requirements.

\*15d. **Deleted.**

\*15e. Purchase of Additional Components for the Commercial Stage at the Mesa Convention Center **(Sole Source)**.

The Procurement Services Department recommends awarding the sole source bid to Sico America, Inc. at \$32,478.34, including applicable use tax and freight.

- \*15f. Purchase of a Replacement Commercial Performance Stage for the Mesa Convention Center **(Single Bid)**.

The Procurement Services Department recommends awarding the contract to StageRight Corporation at \$40,288.51, including applicable use tax and freight.

- \*15g. Purchase of Replacement Banquet Style Stacking Chairs for the Mesa Convention Center.

The Procurement Services Department recommends awarding the contract to the lowest, responsive and responsible bid from Virco, Inc. at \$114,973.08, including applicable use tax.

- \*15h. Purchase of Fire Hoses for the Mesa Fire Department **(Single Bid)**.

The Procurement Services Department recommends awarding the contract to L.N. Curtis & Sons at \$57,224.64, including applicable sales tax.

- \*15i. Three-Year Supply Contract for Uniform Garments for the Fire Department.

The Procurement Services Department recommends awarding contracts to the lowest, responsive and responsible bidders in each group, Larada Army Navy LLC, dba Larada's Uniform & Supply Co., (Group A) at \$152,026.35 and United Fire Equipment Co. (Group B) at \$185,877.95, for a total award of \$337,904.30 annually, based on estimated requirements, including applicable sales tax.

- \*15j. Dollar Limit Increase and Two-Year Renewal of the Supply Contract for Fire Protective Clothing for the Fire Department.

The Procurement Services Department recommends increasing the dollar limit of the contract with United Fire Equipment Company by \$20,000.00 to \$372,986.81 for the contract period ending 6/30/08, and authorizing a two-year renewal of the contract at \$268,093.95 annually, based on estimated quantities, including applicable sales tax.

- \*15k. Ratification of Dollar Limit Increase for the Purchase of Fire Pumper Trucks for the Fire Department (Partially Fire Bond Funded).

The Procurement Services Department recommends ratification of a dollar limit increase for two purchase orders on the contract with Pierce Manufacturing, Inc. at \$38,755.99 to provide funding for City of Phoenix and Maricopa County taxes.

- \*15l. Three-Year Supply Contract for Pump Repair and Deep Well Maintenance for the Utilities Department, Water Division.

The Procurement Services Department recommends accepting the overall low bid by Weber Group, L.C. at \$375,000.00 annually, based on estimated requirements, for two separate contracts.

- \*15m. Three-Year Supply Contract for 69kV Transmission Poles and Hardware for the Utilities Department, Electric Division.

The Procurement Services Department recommends awarding contracts to the lowest, responsible and responsive bids by Valmont Ind., Inc., dba Valmont-Newmark, at \$532,345.44 and HD Supply Utilities LTD at \$87,715.64, for a combined award of \$620,061.08 annually, including applicable taxes, based on estimated quantities.

- \*15n. Cancellation of the Contract to Purchase Three (3) Replacement Heavy-Duty Chassis Vehicles with Roll-Off Container System for the Solid Waste Department.

The Fleet Services and Procurement Services Departments recommend cancellation of the contract previously awarded to Inland Kenworth.

- \*15o. Mini-Bus Shelters – Phase 3, City of Mesa Project No. 01-505-005. **(Citywide)**

This project will prepare an additional ten (10) mini-shelter locations so shelters can be installed and equipped by City crews.

Recommend award to the low bidder, C T Price Contracting, Inc., in the amount of \$32,943.00 plus an additional \$3,294.30 (10% allowance for change orders) for a total award of \$36,237.30. Funding for this project is available from the approved FY 07/08 Mass Transit Capital budget.

- \*15p. Desert Wells No. 17 Equipping Phase, City of Mesa Project No. 01-616-002. **(District 6)**

This project will install the necessary aboveground piping, electrical, and chlorination equipment so the City can put this well in operation.

Recommend award to the low bidder, Weber Group, LC, in the amount of \$966,059.00 plus an additional \$96,605.90 (10% allowance for change orders) for a total award of \$1,062,664.90. Funding for this project is available in the preliminary FY 2008/09 Capital Water Bond Program.

- \*15q. Rhodes Junior High School Pool Sewer Line Relocation, City of Mesa Project No. 01-861-002. **(District 3)**

This project will relocate the sewer line to avoid conflict when the main pool building is demolished and reconstructed with a larger footprint than the existing building and will extend over the top of an existing sewer line.

Recommend award to the low bidder, Spire Engineering, LLC, in the amount of \$31,500.00 plus an additional \$3,150.00 (10% allowance for change orders) for a total award of \$34,650.00. Funding for this project is available from the approved FY 07/08 Aquatics Capital Budget (Quality of Life funds).

- \*15r. Falcon Field Airport, Vehicle Access Control (Phase III), City of Mesa Project No. 06-042-001. **(District 5)**

This project will construct a new 8-foot high chain link fence and six new motorized gates along specific sections to provide a controlled access to Falcon Field Airport.

Recommend award to the low bidder, Norquay Construction, Inc., in the amount of \$949,184.20 plus an additional \$94,918.42 (10% allowance for change orders) for a total award of \$1,044,102.62. Funding for this project is available from existing Federal (FAA) Grants AIP No. 3-04-0023-14 and No. 3-04-0023-16, new Grant AIP No. 3-04-0023-17, State matching grants, and the Preliminary FY 2008/09 Falcon Field Airport Capital Budget.

- \*15s. Mesa Amphitheater Lighting Renovation, City of Mesa Project No. 07-007-001. **(District 4)**

This project will remove existing theatrical lighting and dimming system, which has become obsolete. New isle lights will be installed to take the place of the existing isle lighting to provide emergency egress lighting.

Recommend award to the low bidder, Sunbelt Electric, Inc., in the amount of \$98,682.00 plus an additional \$9,868.20 (10% allowance for change orders) for a total award of \$108,550.20. Funding for this project is available from the approved FY 07/08 Parks and Recreation Commercial Facilities budget.

- \*15t. HVAC Replacement at East Mesa Service Center, Utilities Building (7115 East Adobe) & Public Training Facility (3260 N. 40<sup>th</sup> Street), City of Mesa Project No. 07-009-002. **(Districts 2 and 5)**

This project will replace the HVAC units at these locations. They have been identified as being at the end of their service life and scheduled to be replaced.

Recommend award to the low bidder, J E Bowen Construction, LLC, in the amount of \$126,637.00 plus an additional \$12,663.70 (10% allowance for change orders) for a total award of \$139,300.70. Funding for this project is available from the approved FY 07/08 Facilities Maintenance budget.

- \*15u. Roofing Maintenance/Improvements at Various City Buildings, City of Mesa Project No. 07-906-001. **(District 4)**

This project will install a new foam roof or sprayed on coating at the following locations: Municipal Building (55 North Center St.), Transportation Building (300 E. 6<sup>th</sup> Street), Printing and Graphics Building (316 E. 6<sup>th</sup> Street), Center Against Family Violence Building (225 E. 1<sup>st</sup> Street), and the Mesa Arts Center Building (1 East Main St., Buildings 1 and 2).

Recommend award to the low bidder, Foam Experts, Inc., in the amount of \$191,111.00 plus an additional \$19,111.00 (10% allowance for change orders) for a total award of \$210,222.00. Funding is available from the approved FY 07/08 Facilities Maintenance budget.

- \*15v. 2008/2009 Sewer Video Recording Contract, City of Mesa Project No. 07-916-001. **(Citywide)**

This is an annual contract to perform video recording inspections on City Capital Improvement Projects and Development Projects for the upcoming fiscal year.

Recommend award to the low bidder, Pipeline Video Inspection LLC, in the amount of \$64,100.00 plus an additional \$6,410.00 (10% allowance for change orders) for a total award of \$70,510.00. These services will be charged to the individual Wastewater Capital Projects for which the sewer line video inspection is performed.

16. Introduction of the following ordinances and setting July 1, 2008, as the date of the public hearing on these ordinances:

- \*16a. **Z08-32 (District 1)** East and West of Dobson Road, along the 202 Freeway (south side). Modification of a Council Use Permit (Ordinance No. 4312). This request is to consider an additional freeway landmark monument sign with a double-sided electronic message display at the Riverview development. DeRito Kimco Riverview LLC – Doug Himmelberger, owner; Young Electric Sign Company – Kelee Walton, applicant. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

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

DRB Recommendation: Approval with Conditions. (Vote: 4-1-1 with Boardmembers Bottomley, nay, DiBella, abstaining and Delight absent)

- \*16b. **Z08-33 (District 5)** 8348 East Plymouth. Located west of Hawes Road north of McDowell Road (1.01+ acres). Rezone from Maricopa County R1-35 to City of Mesa R1-35. For the establishment of City of Mesa zoning on recently annexed property. Brian and Carrie Rogerson, owners; City of Mesa, applicant.

PHO Recommendation: Approval with Conditions.

- \*16c. **Z08-34 (District 5)** 8132 East Culver Street. Located west of Hawes Road south of McDowell Road (1.13+ acres). Rezone from Maricopa County R1-35 to City of Mesa R1-35. For the establishment of City of Mesa zoning on recently annexed property. Thomas and Cathleen Kane, owners; City of Mesa, applicant.

PHO Recommendation: Approval with Conditions.

- \*16d. **Z08-35 (District 6)** The 6900 block of South Ellsworth Road (east side). Located south of Pecos Road and east of Ellsworth Road (0.01+ acres). Rezone from Maricopa County Rural-43 to City of Mesa R1-43. For the establishment of City of Mesa zoning on recently annexed property. Williams Gateway Airport Authority, owner; City of Mesa, applicant.

PHO Recommendation: Approval with Conditions.

- \*16e. **Z08-36 (District 6)** The 6800 to 6900 block of South Ellsworth Road (west side). Located south of Pecos Road and west of Ellsworth Road (0.08+ acres). Rezone from Maricopa County Rural-43 to City of Mesa R1-43. For the establishment of City of Mesa zoning on recently annexed property. Williams Gateway Airport Authority, owner; City of Mesa, applicant.

PHO Recommendation: Approval with Conditions.

17. Take action on the following resolutions:

- 17a. Modifying fees and charges for the Building Safety Division as recommended by the Audit & Finance Committee – Resolution No. 9294. (Approval. Vote: 3-0) **(CONTINUED FROM THE JUNE 2, 2008 COUNCIL MEETING.)**

Robert Burgheimer, 6062 East Riverdale Street, an architect, speaking on behalf of the professional society, expressed appreciation to Building Safety Director Terry Williams and Development Services Department Director Christine Zielonka for their efforts to meet and solicit input from the group regarding the proposed fees and charges. He stated that the professional society supports the fee increases and recognizes the need for various technology upgrades that the City currently lacks. Mr. Burgheimer also acknowledged the concerns of the Home Builders Association, but commented that the increased fees and charges are relatively insignificant and would not affect the commercial market.

Kendall Baxley, 1512 South Sunnyvale Circle, representing the Home Builders Association of Central Arizona, stated that the Association recognizes the City's need to maintain cost recovery with respect to inflation. He noted, however, that the Association's discomfort lies with the timing of the proposed fee increases. Mr. Baxley commented that when the housing market was flourishing, such fee increases went by virtually unnoticed. He stated that with respect to the current slowdown in the economy, builders are re-bidding communities multiple times in order to "squeeze out every bit of cost possible." He said that the time and effort spent in re-bidding communities is significant and additional application fees would result in extending the market recovery in Mesa.

Mr. Baxley further indicated that at the April 21, 2008 Regular Council Meeting, the previous Council made a motion to consider delaying the implementation of the fee increases for six months or bring back the residential fees in a year. He said that the previous Council also suggested looking at revenues from commercial submittals to be used as an offset in lieu of increasing the proposed residential fees. Mr. Baxley questioned whether the new Council had considered such options. He concluded his remarks by stating that residential submittals "are virtually extinct at present, with no foreseeable increase in volume." He requested that the Council defer the proposed fee increases for one year or until viable evidence of a stable market exists.

In response to a series of questions by Councilmember Finter, Building Safety Director Terry Williams explained that the Building Safety Division is a stand-alone restricted division of the City and said that the revenues are directly supported to offset the cost of providing the services to the development community. He explained that any reduction in the proposed fees would likely result in a reduction of approximately two staff positions in Plan Review and Field Inspection.

Mr. Williams further advised that residential permits in Mesa are running contrary to those of nearby communities and stated that the bulk of such permits is being issued for large custom homes.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Jones, that Resolution No. 9294 be adopted.

Carried unanimously.

- 17b. Modifying residential fees and charges for the Planning Division as recommended by the Audit & Finance Committee – Resolution No. 9295. (Approval. Vote: 2-1, Rawles nay)  
**(CONTINUED FROM THE JUNE 2, 2008 COUNCIL MEETING.)**

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution No. 9295 be adopted.

Carried unanimously.

- \*17c. Approving and supporting the submittal of a grant application by Junior Achievement of Arizona, Inc. to the Fort McDowell Yavapai Indian Nation in the amount of \$120,000 over three years to provide programs at Mesa schools – Resolution No. 9278.
- 17d. Extinguishing a portion of a Public Utilities Easement at 1508 North Alta Mesa Drive – Resolution No. 9296. **(District 5)**

This portion of the easement is no longer required as the design of the property has changed and the new plat will dedicate new easements.

Mayor Smith declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item. He yielded the gavel to Vice Mayor Jones for action on this item.

It was moved by Councilmember Somers, seconded by Councilmember Kavanaugh, that Resolution No. 9296 be adopted.

Upon tabulation of votes, it showed:

AYES - Finter-Higgins-Jones-Kavanaugh-Richins-Somers  
NAYS - None  
ABSTAIN - Smith

Vice Mayor Jones declared the motion carried unanimously by those voting and Resolution No. 9296 adopted.

With action on this item being completed, Vice Mayor Jones yielded the gavel back to Mayor Smith.

- \*17e. Granting a Power Distribution Easement to Salt River Project on City-owned property at 10950 East Elliot Road – Resolution No. 9279. **(District 6)**

This easement is necessary to provide electrical facilities and power to the future South CAP Water Treatment Plant.

- \*17f. Vacating an alley located north of Huber Street, between North Gaylord Circle and North 25<sup>th</sup> Street – Resolution No. 9280. **(District 1)**

This alley is being vacated at the request of the adjacent property owners to better secure the area. A Public Utility and Facilities Easement will be retained for access by the utility companies.

- \*17g. Extinguishing a portion of a Public Utility and Facilities Easement at 2232 South Valle Verde Street – Resolution No. 9281. **(District 6)**

The portion of this easement is being extinguished to allow the construction of a backyard ramada.

- \*17h. Granting a Public Utilities and Facilities Easement along the south side of the East McLellan Road alignment, west of North Hawes Road – Resolution No. 9282. **(District 5)**

This easement is necessary for the installation of a sanitary sewer line facility to accommodate several subdivisions in the Mountain Bridge Development.

- \*17i. Vacating a portion of South Sunview Street, northeast of Recker Road and Baseline Road – Resolution No. 9283. **(District 6)**

This portion of street right-of-way is being vacated at the request of the property owners as the street is being redesigned as a private drive.

18. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (\*), a blue card must be given to the Clerk before Council votes on the consent agenda.

- \*18a. Amending Title 5, Chapter 13, Section 2 of the Mesa City Code to change the name of the Residential Development Tax to Solid Waste Residential Development Tax and adjusting the rate as recommended by the Audit & Finance Committee – Ordinance No. 4851. (Approval. Vote: 3-0)

- \*18b. Amending Title 5, Chapter 10 of the Mesa City Code relating to Privilege and Excise Taxes. This amendment includes an annual renewal and a renewal fee, late application penalty fee and addition of a Transient Privilege License category for those business activities operating for a temporary period of less than thirty days as recommended by the Audit & Finance Committee – Ordinance No. 4852. (Approval. Vote: 3-0)

- 18c. Repealing Title 5, Chapter 19 of the Mesa City Code relating to fortunetelling licenses as recommended by the Audit & Finance Committee. (Approval. Vote: 3-0)

Jennifer Adams, 1010 East Main Street, Suite D, a licensed fortuneteller in the City of Mesa for 14 years, requested that the current licensing provisions for fortunetellers remain in effect. She

stressed the importance of the applicants being required to submit to fingerprint and background checks in order to ensure that “the riff-raff” stays out of the community. Ms. Adams added that she would be supportive of an increase in the licensing fees.

Reverend Moemi Medina, 1701 North Lindsay Road, a spiritual and metaphysical minister, concurred with the comments of the previous speaker. She noted, however, that she would prefer that the \$300 annual fee be reduced to a lesser amount.

Councilmember Somers stated that it is important to note that the fortunetelling license issued by the City of Mesa is not a certification that indicates the applicant has the minimum skill sets with which to operate in his/her profession. He explained that the City has simply established a tax with regard to fortunetellers, which it has termed as a license. Councilmember Somers added that in his opinion, a tax on fortunetellers “makes no sense,” especially when there is no return to the community.

It was moved by Councilmember Somers, seconded by Councilmember Finter, that Title 5, Chapter 19 of the Mesa City Code relating to fortunetelling licenses, be repealed.

Councilmember Higgins commented that she agreed with the comments of Ms. Adams that the City’s fortunetelling licensing process “has protected our community from crooks.” She also stated that in her opinion, the \$300 fee is essentially cost recovery for the fingerprint and background checks performed by the City. Councilmember Higgins added that the system has worked for 12 years and said that she would prefer that the licensing process remain in effect.

Councilmember Richins concurred with Councilmember Higgins and stated that he would oppose the motion.

Vice Mayor Jones stated that when individuals in the industry encourage the Council to allow the fingerprint and background checks to remain in effect with regard to the fortunetelling license, he sees no reason not to do so. He added that perhaps it would be appropriate to review the fees at some time in the future.

Mayor Smith voiced support for the motion and stated that the government should not be involved in the regulation of fortunetelling businesses.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Smith, Finter, Somers  
NAYS - Higgins-Jones-Kavanaugh-Richins

Mayor Smith declared the motion failed for lack of a majority vote.

- \*18d. **Z07-120 (District 6)** 423 South Signal Butte Road. Located on the south side of Broadway Road and the east side of Signal Butte Road (13.5+ acres). Rezone from R1-6-PAD to R1-6 and C-2 and Site Plan Review for the development of a neighborhood commercial center for the western-most 4.64 acres of the property. Tom Alford, DeRito Partners Development, Inc., owner; Michelle Santoro, Whitley Morris, P.L.C., applicant; Tom Meeks, Erickson & Meeks Engineering, L.L.C., engineer – Ordinance No. 4853.

***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.) (CONTINUED FROM THE JANUARY 22, 2008, MARCH 17, 2008, APRIL 21, 2008, and MAY 19, 2008 COUNCIL MEETINGS.)***

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

\*19. Authorizing the City Manager to enter into an agreement with the Mesa Convention & Visitors Bureau to continue promoting tourism and convention business in Mesa.

19.1. Take action on the adoption of a Notice of Intent to enter into a retail development tax incentive agreement with Empire Southwest, LLC, The John Whiteman Trust A, and BCH Management, LLC for the annexation and development of +/- 43.6 acres plus the development +/- 11 acres, generally located south of the U.S. 60 Freeway and east of Country Club Drive.

Mayor Smith stated that this item was removed from the consent agenda in order for staff to provide a brief overview of the matter. He explained that Council action on this issue is tentatively scheduled for the July 8, 2008 Regular Council meeting.

City Attorney Debbie Spinner addressed the Council and reported that this item concerns a proposed Development Agreement between the City of Mesa and Empire Southwest, which is located on the southeast corner of U.S. 60 and Country Club Drive. She explained that the entity consists of two sections: one portion that is privately owned property and currently located in unincorporated Maricopa County; and a second parcel that is privately owned property and situated within the City of Mesa. Ms. Spinner stated that all of the retail sales generated by the company are done so on the property that is being considered for annexation into the City.

Ms. Spinner highlighted various provisions that would be included in the Development Agreement including annexation; improvements to Iron Drive (a roadway situated along Empire Southwest's property that would be annexed into the City and improved to City of Mesa standards); the addition of approximately 164,000 square feet to the existing facilities; and economic incentives (If Empire Southwest generates a minimum of \$75 million annually in taxable revenue, which is revenue not currently being taxed by the City, the company would be eligible to share in the tax generated at the facility which is located on the property that would be annexed into the City.)

Ms. Spinner also reviewed various documents included as part of the Notice of Intent (i.e., "Key Terms to the Pre-Annexation Development Agreement" and various maps of the facility).

Ms. Spinner further reported that per State law, in order to set the process in motion, the Council would first consider the Notice of Intent, which would require four affirmative votes. She explained that in approximately 14 days, staff would bring back the completed Development Agreement for Council consideration, as well as an independent economic analysis. Ms. Spinner noted that the economic analysis, which is required by State law, would demonstrate whether the City of Mesa would collect more sales tax revenues than it would provide in economic incentives to Empire Southwest. She added that once the Development Agreement is finalized later this week, it will be made public.

It was moved by Vice Mayor Jones, seconded by Councilmember Kavanaugh, that the above-referenced Notice of Intent be adopted.

In response to an inquiry from Mayor Smith, City Manager Christopher Brady responded that staff anticipates that the benefits that the City of Mesa would receive in taxable revenue from Empire Southwest would certainly outweigh any costs borne by the City. He stated that the third-party economic analysis would confirm such an assessment.

Mayor Smith called for the vote.

Carried unanimously.

20. Take action on the following subdivision plat:

- \*20a. "AQUATERRA RESIDENCES" (**District 3**) 1038 West Grove Avenue (north side) located south and east of Southern Avenue and Alma School Road. 341 C-2-BIZ-DMP CUP condominium units (4.9 ac.) TR Alma Partners, LLC, Thomas Roszak, owner; Stantec Consulting, Inc., Steven R. Long, land surveyor.

21. Items from citizens present.

Sophia Tesch, 119 West Indigo Street, expressed appreciation to Councilmember Somers for extending an invitation to Mesa residents to become more involved in City government and in particular, the budget process. She also encouraged citizens to visit the City's web site to familiarize themselves with various governmental processes.

22. Adjournment.

Without objection, the meeting adjourned at 7:00 p.m.

\_\_\_\_\_  
SCOTT SMITH, MAYOR

ATTEST:

\_\_\_\_\_  
LINDA CROCKER, 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 23<sup>rd</sup> day of June 2008. I further certify that the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
LINDA CROCKER, CITY CLERK