



OFFICE OF CITY CLERK

## COUNCIL MINUTES

March 3, 2008

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on March 3, 2008 at 5:45 p.m.

### COUNCIL PRESENT

Mayor Keno Hawker  
Kyle Jones  
Scott Somers  
Darrell Truitt  
Claudia Walters  
Mike Whalen

### COUNCIL ABSENT

Tom Rawles

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Mayor Hawker excused Councilmember Rawles from the entire meeting.

Invocation by Councilmember Jones.

Pledge of Allegiance was led by Scout Jimmy Burns.

Mayor's Welcome.

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

Agenda item 8a was removed from the consent agenda at the request of several citizens.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the consent agenda items, with the exception of item 8a, be approved.

Upon tabulation of votes, it showed:

AYES – Hawker-Jones-Somers-Truitt-Walters-Whalen  
NAYS – None  
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present.

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

Minutes from the February 4, 2008 and February 19, 2008 Council meetings.

3. Conduct a public hearing and take action on the annual assessments for the Mesa Town Center Improvement District No. 228:

3a. Public hearing on the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

Mayor Hawker and Councilmember Whalen declared potential conflicts of interest on agenda items 3a and 3b and said they would refrain from discussion/consideration of these items. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on these agenda items.

Vice Mayor Walters announced that this is the time and place for a public hearing regarding the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

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

3b. Take action on the following resolution:

Approving the proposed rate adjustment for the Mesa Town Center Improvement District No. 228. The proposed rate adjustment will increase the annual assessments three percent (3%) per year for the next four (4) years (FY 08/09, 09/10, 10/11 and 11/12) – Resolution No. 9197.

It was moved by Councilmember Jones, seconded by Councilmember Somers, that Resolution No. 9197 be adopted.

Upon tabulation of votes, it showed:

AYES – Jones-Somers-Truitt-Walters  
NAYS – None  
ABSTAIN – Hawker-Whalen  
ABSENT – Rawles

Vice Mayor Walters declared the motion carried unanimously by those present and voting and Resolution No. 9197 adopted.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

4. Conduct a public hearing on the proposed FY 2008/2009 CDBG/HOME/ADDI/ESG programs.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed FY 2008/2009 CDBG/HOME/ADDI/ESG programs.

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

5. Take action on the following contracts:

- \*5a. Dollar limit Increase to the supply contract for paint and sundry supplies for various City departments.

The Procurement Services Department recommends increasing the dollar limit of the Mesa contract to ICI Dulux Paints by \$23,000.00 to \$88,000.00 annually including applicable sales tax, based on estimated requirements.

- \*5b. One-year renewal supply contract for sign sheeting for the Transportation Department, Field Operations Division.

The Procurement Services Department recommends authorizing renewal to 3M Company, Traffic Safety Systems at \$60,000.00 annually, including applicable use tax, based on estimated requirements.

- \*5c. Three-year supply contract for Anodeless Service Risers for Materials & Supply Warehouse Inventory for the Utilities Department, Gas Division.

The Procurement Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, R. W. Lyall & Co., Inc. at \$136,497.50, including applicable use tax.

- \*5d. Purchase of hardware and software for meter reading system upgrade for the Financial Services Operations Department, Customer Service Operations (**Sole Source**).

The Procurement Services Department recommends awarding the contract to the sole source bidder, Itron, Inc. at \$330,061.25, including applicable sales tax.

- \*5e. Purchase 485 chairs and repair 1,765 chairs for the Mesa Convention Center.

The Procurement Services Department recommends approving purchase off the U.S. Communities contract with Virco, Inc. at \$143,586.09, including applicable use tax, shipping and installation labor.

- \*5f. Purchase of one full-size SUV for the Mesa Police Department (addition to the Fleet). (Fully grant funded - Homeland Security LETPP Grant Program).

The Procurement Services Department recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$50,133.89, including upfitting and applicable sales tax.

- \*5g. Purchase of six (6) replacement Intelligent Servers for the Utilities Department, Electric Division (**Single Bid**).

The Procurement Services Department recommends awarding the contract to the sole source bidder, Schweitzer Engineering Laboratories, Inc. at \$55,870.85, including applicable use tax.

- \*5h. Purchase of replacement natural gas line tapping equipment for the Utilities Department, Gas Division.

The Procurement Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Tri-Pacific Supply, Inc. at \$33,739.20, including applicable use tax.

- \*5i. Purchase of six (6) replacement hand-held thermal imaging cameras and accessories for the Mesa Fire Department (**Sole Source**).

The Procurement Services Department recommends accepting the sole source bid from LN Curtis & sons at \$74,727.00, including applicable sales tax.

- \*5j. Replaster pools at Franklin Elementary (1753 East 8<sup>th</sup> Avenue), Shepherd Junior High School (1407 North Alta Mesa Drive) and Fremont Junior High School (1001 North Power Road), City of Mesa Project No. 07-008-001.

This project will remove and replace the existing plaster lining on swimming pools at Franklin Elementary School, Shepherd and Fremont Junior High School and will upgrade the existing pool drains to meet the current requirement of the Maricopa County Environmental Services Department (MCESD).

Recommend award to the low bidder, Aquatic Builders, in the amount of \$84,125.00 plus an additional \$8,412.50 (10% allowance for change orders) for a total award of \$92,537.50. Funding for this project is available from the approved FY 07/08 Parks, Recreation and Commercial Facilities Operating Budget.

6. Introduction of the following ordinances and setting March 17, 2008, as the date of the public hearing on these ordinances:

- 6a. **Z07-96 (District 5)** The 5600 block of East Thomas Road (south side). Located west of Recker Road on the south side of Thomas Road (25± acres). Rezone from R1-90 to PEP PAD. This request will allow for the future development of a business park. Van Bethancourt, Red Mountain Commerce Park, LLC, owner; Josh Hannon, EPS Group, Inc., applicant/engineer. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

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

Councilmember Truitt declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that that the subject ordinance be introduced and that March 17, 2005 be established as the date for the public hearing.

Upon tabulation of votes, it showed:

AYES – Hawker-Jones-Somers-Walters-Whalen  
NAYS – None  
ABSTAIN – Truitt  
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present and voting.

\*6b. **Deleted. (See Agenda Item 6.1a)**

\*6c. **Z08-06 (District 1)** 1010 North Country Club Drive. Located west of Country Club Drive and south of Brown Road (20± acres). Rezone from R-4 and C-1 to PEP-BIZ-CUP and Site Plan Review. This will allow for the redevelopment of a hospital building into offices and training facilities and the construction of a technology center. Kip Edwards, Banner Health, owner; Beth Harmon-Vaughan, Gensler, applicant; David V. Pickens, KPFF Consulting Engineers, engineer. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

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

\*6d. **Z08-07 (District 5)** 1527 North Greenfield Road. Located on the east side of Greenfield Road and south of McKellips Road (2.38± acres). Rezone from R-4 to O-S and Site Plan Review. This request will allow for the development of a medical office complex. Tom Stapley, Treehouse Joshua Office, LLC, owner; Daniel Brock, Brock, Craig and Thacker Architects, LTD., applicant; Jared Cox, P.E., Atwell-Hicks Development Consultants, engineer. ***(Held two neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.)***

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

\*6e. **Z08-09 (District 5)** The 2200 and 2400 blocks of North Hawes Road (east side) and the 8400 to 9000 blocks of East McLellan Road (north side). Located west of Ellsworth Road and north and south of McKellips Road (109.67± acres). Modification of the Stone Bridge Mountain Development Master Plan (DMP). Rezone from R1-35 (conceptual R1-15 and R1-9) to R1-9 PAD and R1-35 PAD and Site Plan Review. This will allow for the development of residential subdivisions. Pinnacle Ridge Holdings, LLC, Jeff Blandford, manager, owner; Paul Dugas, applicant; Darrell D. Smith, P.E., Wood, Patel & Associates, Inc. engineer. ***(Held three neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.)***

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

\*6f. **Z08-11 (District 3)** 805 and 913 West Southern Avenue. Located east of Alma School Road and south of Southern Avenue (19± acres). Site Plan Review for the entire 19±

acres, which is part of the "Fiesta Quadrant" DMP, and Rezone from C-2 and C-2 [conceptual BIZ] to C-2-BIZ-CUP (0.25± acres), R-4-BIZ (15.25± acres) and C-2-BIZ (3.5± acres). This request will allow for the development of residential and commercial/office uses. Edward B. Frankel, Trustee of the Frankel Family Trust, owner; Reese Anderson, Pew and Lake, PLC, applicant; Robert Byall, PE, David Evans and Associates Inc., engineer. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with Conditions. (Vote: 6-0 with Boardmember Carter absent)

6.1 Introduction of the following ordinance and setting April 7, 2008, as the date of the public hearing on this ordinance:

- \*6.1a. **Z08-05 (District 3)** The 2200 and 2300 blocks of South Country Club Drive (west side). Located south of Baseline Road on the west side of Country Club Drive (15± acres). Site Plan Review and Council Use Permit. This request will allow the development of a big box retail development in an M-1 zoning district larger than 10,000sf. Brandon Wolfswinkel, Vanderbilt Farms, LLC, owner; W. Ralph Pew, Pew and Lake, PLC, applicant; Peter Vesecky, P.E., DEI Professional Services, engineer. ***(Held a neighborhood meeting, notified property owners and the neighborhood steering committee.)***

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

7. Take action on the following resolutions:

- \*7a. Approving and authorizing the City Manager to approve a Grant Agreement between the City of Mesa and the National Children's Alliance to secure grant funds in the amount of \$10,000 for computer equipment for the Center Against Family Violence to investigate child exploitation cases – Resolution No. 9195.
- \*7b. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Mesa Unified School District No. 4, for cost sharing in the design, construction, and construction management of yellow flashing lights in the school zones on Brown Road, between Power Road and Sterling, and on Southern Avenue, between Higley Road and 48th Street. The City's share of the construction cost is estimated at \$27,500 – Resolution No. 9196.
- 7c. Approving and authorizing the City Manager to amend the Intergovernmental Agreement with the Arizona Department of Commerce for the weatherization assistance program. The amendment includes \$1,548.00 additional Low-income Home Energy Assistance Program funding – Resolution No. 9198.

Councilmember Whalen declared a potential conflict of interest and said that he would refrain from discussion/consideration of this agenda item.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Resolution No. 9198 be adopted.

Upon tabulation of votes, it showed:

AYES – Hawker-Jones-Somers-Truitt-Walters  
NAYS – None  
ABSTAIN – Whalen  
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present and voting and Resolution No. 9198 adopted.

8. 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.

8a. **Z07-122 (District 5)** 7336 East Main Street, Suite 14. Located west of Sossaman Road on the north side of Main Street (23,106 square feet). Council Use Permit to allow for a nightclub in a C-2 zoning district. Michael A. Pollack, Pollack Investments, owner; Reese Anderson, Pew and Lake, PLC, applicant – Ordinance No. 4814. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with Conditions. (Vote: 6-0 with Boardmember Adams absent).

Mayor Hawker outlined the procedures to be followed in addressing the zoning case. He advised that the Council would first hear from the applicant, followed by public comment and staff's recommendation, after which the Council would discuss and consider the case.

Ralph Pew, an attorney with Pew and Lake, addressed the Council on behalf of the applicant. He stated that Steve Pratico and Brian Crumb, owners of the proposed Hurricane Bay Nightclub in Mesa, and Michael Pollack, the landlord and owner of the Sun Valley Plaza West located at the corner of Sossamon and East Main Street, were present to answer any questions. Mr. Pew noted that the proposed location for the nightclub in a C-2 zoning district requires a Council Use Permit, which is appropriate when the use is consistent with the existing zoning and City policies in addition to being compatible with the surrounding uses.

Mr. Pew reported that staff has recommended approval of the project, and he noted that the Planning and Zoning (P&Z) Board, after receiving significant public input, unanimously recommended approval of the Council Use Permit. He said that the outdoor smoking area has been designed to comply with State and local ordinances and a plan is in place that provides assurances regarding the operation of the nightclub. Mr. Pew advised that a professional sound study conducted on the building indicated that the sound levels will comply with the City Code, and he noted that additional improvements planned for the building would further minimize the sound levels. Mr. Pew added that security guards would patrol the parking lot and an experienced manager would be in charge of the facility.

Mr. Pew addressed the issue of crime and stated the opinion that crime in the area would be reduced because of the presence of off-duty police officers providing security. He cited crime statistics for the area surrounding the Phoenix Hurricane Bay property, which indicated that the

crime rate reduced in each of the years after the nightclub opened. Mr. Pew advised that the parking areas would be brought into compliance with the current City regulations, and he added that the separations between churches and schools meet the City's requirements. He requested Council approval of the zoning case.

In response to a series of questions from Councilmember Somers, Mr. Pew advised that the protest originally filed by the apartment building owner to the north of project was withdrawn as a result of negotiations between the parties.

Mr. Pollack came forward and advised that at the request of the apartment building owner, he agreed to increase the height of the wall at the property line by approximately one and a half feet. He added that after receiving an explanation of the proposal and becoming aware of the requirements and stipulations imposed by the City, the owner of the apartment building was no longer opposed to the project.

The following individuals addressed the Council in support of project:

Paul J. O'Neill, 3612 North Sonoran Heights  
Michael Pollack, 1930 East Brown Road  
Richard T. Tracy, Sr., 2238 South Cottonwood Street  
Darlescia Gates, 1847 West Devonshire Street  
Roy Thurman, 508 North 81<sup>st</sup> Place

Comments made in support of the project included the following:

- The project will provide a secure and safe entertainment venue in Mesa
- The site has been almost completely vacant for several years, which could have a negative impact on the value of neighboring properties.
- The project will generate jobs and revenue to the City.
- The nightclub would target an older, more responsible customer.

The following citizens completed speaker/comment cards in support of the project, but indicated that they did not wish to address the Council:

John W. Locke, 3619 North Sonoran Heights  
Virginia Jaeger, 5734 East McDowell Road  
Jason Masters, 326 North Seymour  
Steffani Pratico, 326 North Seymour  
Derick Swain, 341 North Greenwood  
Teresa Williams, 6037 East Inglewood  
Mark Vudrag, 6740 East Northridge Street  
Renee Fourie, 6052 East Virginia Street  
David Perlaza, 6656 East Virginia Street  
Jenny Perlaza, 6656 East Virginia Street  
Paul Hubbard, 4013 North Olympic Circle  
Joseph Pratico, 6652 East Virginia Street  
Kimberly Zolkoski, 7258 East Hobart Circle  
Takeshi Hosoda, 6652 East Virginia Street  
Rosalee L. Dunn, 2959 East Hope Street

Listed below are the individuals who addressed the Council in opposition to the project:

William Wall, 145 North 74<sup>th</sup> Street  
Patricia A. Lorenzen, 145 North 74<sup>th</sup> Street  
Chuck Erickson, 7555 East Bogart Avenue  
Philip Platt, 7324 East Arbor Avenue  
Patricia Logan, 7318 East Arbor Avenue

Comments made in opposition to the project include the following:

- This type of project is not suitable in a residential area because of noise and traffic issues.
- Immoral and/or illegal activities are likely to occur at this site resulting in an increase in calls for service to Police Department.
- Nightclub patrons leaving the area may mistakenly enter the residential areas.
- Property values will decrease because of the proximity of a nightclub.

The following citizens completed speaker/comment cards in opposition to the project, but indicated that they did not wish to address the Council:

Charles Lake, 145 South Amulet Avenue  
Florence Rasset, 145 South Amulet Avenue  
Joan Anderson, 7556 East Arbor Avenue  
William Anderson, 7222 East Baywood  
Ron Lorenzen, 145 North 74<sup>th</sup> Street  
Lee Pixler, 145 North 74<sup>th</sup> Street  
Dorothy Pixler, 145 North 74<sup>th</sup> Street  
Jacqueline Card, 7240 East Arbor Avenue  
Luana Platt, 7324 East Arbor Avenue

Mr. Pew thanked those individuals who spoke in support of the project, and he reassured the residents who expressed opposition that the nightclub would not generate excessive noise or traffic in their neighborhoods.

Planning Director John Wesley stated that the C-2 zoning allows a nightclub to be located in this area when a Council Use Permit is granted. He noted that the applicant prepared a good neighbor policy and a project narrative that addressed the initial concerns of staff. Mr. Wesley said that staff and the P&Z Board recommend approval of the zoning case.

In response to a question from Councilmember Somers, Mr. Wesley advised that the major difference between the site in this case and the previous application for a site near Superstition Springs is that this project is located further away from the residential areas. He noted that Main Street provides an additional buffer for the project.

Councilmember Somers suggested that this project could generate interest on the part of other businesses to locate in the area. He added that the area was a prime location for a restaurant.

Responding to a question from Councilmember Somers, the applicant confirmed that individuals who loiter or create a disturbance outside of the nightclub would be prosecuted.

It was moved by Councilmember Whalen, seconded by Mayor Hawker, that Ordinance No. 4814 be adopted.

Mr. Pew responded to questions from Vice Mayor Walters by confirming that music would not be piped to the outside areas of the facility. He also stated that security officers would ensure that patrons do not create excessive noise in the parking lot.

Mr. Pratico, one of the owners, came forward to advise that their employees are trained to identify individuals who have consumed an excessive amount of alcohol. He stated that the Phoenix location has taxicabs on call to provide transportation for these individuals, and he added that the same service would be implemented in Mesa.

Vice Mayor Walters noted that the area residents should be reassured by the fact that Mr. Pollack, the landlord, has an excellent reputation and has had extensive experience in redeveloping Valley properties. She advised that her support of this case is based on the fact that the configuration of the street and parking lot is significantly different from the previous proposal for the Superstition Springs area.

Councilmember Truitt said that the applicant has met the conditions, and he stated that he would support the project.

Mayor Hawker reported that he visited the Hurricane Bay location in Phoenix and did not observe any activities that would cause him to oppose the project.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES – Hawker-Jones-Somers-Truitt-Walters-Whalen  
NAYS – None  
ABSENT – Rawles

Mayor Hawker declared the motion carried unanimously by those present and Ordinance No. 4814 adopted.

\*9. Assign delinquent accounts to collections services for the three-month period ending December 31, 2007, totaling \$534,700.

10. Take action on the following subdivision plat:

\*10a. "SUNLAND SPRINGS VILLAGE UNIT SEVEN PHASE ONE" (**District 6**) The 11000 to 11500 blocks of East Guadalupe Road (north side) located north and east of Guadalupe Road and Signal Butte Road. 82 R1-6 DMP single residential lots (36.60 ac) Transnation Title Insurance Company, Henry D. Ledema, assistant secretary, trustee; Robert J. Blake, Clouse Engineering, Inc., engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the meeting adjourned at 7:02 p.m.

\_\_\_\_\_  
KENO HAWKER, 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 3<sup>rd</sup> day of March 2008. I further certify that the meeting was duly called and held and that a quorum was present.

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

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