



COUNCIL MINUTES

January 6, 2003

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on January 6, 2003 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Dennis Kavanaugh
Rex Griswold
Kyle Jones
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

STAFF PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

Invocation by Reverend Howard Diamond, Newlife Foursquare Church.

Pledge of Allegiance was led by Councilmember Jones.

Mayor's Welcome.

Mayor Hawker welcomed everyone to the meeting and acknowledged the presence of his mother who was seated in the audience. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

State of the City message by Mayor Hawker.

Good evening. It's my pleasure to begin tonight's meeting with the annual State of the City address. This tradition was started by former Mayor Wayne Pomeroy. The State of the City address provides me with an opportunity to talk to you about what your elected officials have already accomplished and what we are working on and hope to accomplish in the future.

Having reviewed some prior City of Mesa addresses going back to the Wayne Pomeroy days, I found out that a lot of them were filled with something that I would consider non-useful information. For example: How many traffic signals do we have in Mesa? 1,280. Number of water services? 126,312. So I decided to take a different approach this evening. I'd like to start this evening's meeting with just a little humor.

A little girl asked her father, "Daddy, do all fairy tales begin with Once Upon a Time?" He replied, "No. There is a whole series of fairy tales that begin with, "If elected, I promise – "

The seven of us who sit before you are elected because of our vision and commitment to getting things done. Tonight we're here to talk about goals, priorities, and accomplishments and not fairy tales.

My personal priorities for the coming year include, first of all, working on our long-term budget forecast so that we know how much money we have and what our operational costs will be for next year and 25 years from now. I also want to work on completing our Housing Master Plan that was promised through our General Plan Update. We promised that it would be accomplished in five years, but I am confident that it will be completed in one. And probably most important for me is balancing our budget and living within our means. Government should be able to grow at the same rate as our population with an adjustment for the impacts of inflation. Let's work to make that happen.

It's clear to me, as I look around the room tonight at the people and partnerships represented here, that Mesa has a lot of dedicated residents. We are a community characterized by people who provide quality service. This is our motto: "Great People. Quality Service." And it captures the efforts of City Councilmembers, staff and community stewards.

2002 has been a dynamic year for Mesa: The widening project on the Superstition Freeway was completed. We broke ground on the Mesa Arts Center. We submitted a site for the Arizona Cardinals stadium that would have brought the facility to Mesa at no additional cost to our residents. And through Mesa 2025: A Shared Vision, we updated the City's Master Land Use, Economic Development, Transportation, and Parks and Recreation Plans. These updates, made possible through the dedicated efforts of volunteer committeemembers, residents, staff and Councilmembers, will guide our City as we move from a bedroom community to a boardroom community.

As you can see, we accomplished a lot, and as Mayor, I am fortunate to work with six talented individuals on the Mesa City Council. We are a unique group of seven people with varied backgrounds and interests. By working together, we capitalize on each other's expertise and our residents benefit from our shared strength.

Dennis Kavanaugh, our Vice Mayor, is a man who is truly dedicated to the arts. His work ethic is unsurpassed and he is always looking for new ways to serve his constituents. Dennis is active on the local, State and national levels through his involvement with Public Safety communications. He has been appointed to his second term as the Vice-Chair of the National League of Cities Information Technology and Communications Steering Committee. Dennis also serves as Chair of the Council General Development Committee. We would be here all night if I listed all of the accolades, so I'll summarize by saying that Dennis is a capable and talented Vice Mayor.

Claudia Walters represents Council District 1. I have had the distinct pleasure of working with Claudia for the past five years. I respect Claudia for her willingness to get involved, no matter what the issue. I appreciate her accepting the challenge to expand her fields of expertise and become Mesa's water expert. In addition, she represents Mesa at the National League of Cities through her involvement with the Health and Human Services Steering Committee. She also works locally to enhance the education of our youth and she serves as the Chair of the Council Fire Committee. Claudia is a joy to work with and a great friend to me. She studies and understands the background materials, isn't afraid to ask questions, and has exceptional reasoning skills.

Mike Whalen used to be known as Assistant Police Chief Whalen. But last year, he was known as our resident football fan who did an outstanding job of actively pursuing the Cardinals stadium. But our residents expressed that there is more to life than football, and Mike has redirected his energies to the topics of transportation, as Chair of our Transportation Committee, tourism, through his participation on the Mesa Convention and Visitors Bureau, and homelessness, through membership in the Maricopa Association of Governments Regional Committee. Mike is an articulate representative for District 2 and a true asset to this Council.

Kyle Jones is the Councilmember from District 4, the heart of Mesa. Kyle is the Chair of our Council Finance Committee and also serves on the Mesa Town Center Corporation Board. He is active in the many projects currently underway in downtown Mesa, including Mesa's \$94.4 million Arts Center, which is 12% complete and scheduled to open in 2005. Kyle is looking into funding for our Aquatics Center, which is scheduled to break ground when our economy improves and private fundraising bridges the existing gap. Kyle is a thoughtful and earnest person. He brings good ideas and a willingness to work toward consensus. It's a pleasure to serve with him.

District 5 is represented by Rex Griswold. Rex has great enthusiasm for Mesa and this is captured in his willingness to work both throughout his Council district and the City as a whole. His energy is unparalleled and I enjoy our weekly meetings where we discuss ideas and future progress for Mesa. Rex is the Chair of the Council Police Committee and sits on the Mesa Chamber of Commerce Board, in addition to the Gang Prevention Steering Committee.

In District 6, the Council representative is Janie Thom. Janie does not shy away from controversy. She stands by her political philosophies, even when it means being the only dissenting vote. Janie serves our Council as Chair of the Utility Committee and is a member of the Solid Waste Advisory Committee, as well as the Community Representative Forum for power-related issues. In this capacity, Janie is working to ensure that we have plenty of power for our rapidly growing population. Whatever the subject matter, Janie brings new ideas and a willingness to ask difficult questions.

The strengths and abilities of each of our Mesa City Councilmembers enhance the policy decisions we make for Mesa. Our City Manager, Mike Hutchinson, is also outstanding in his role as leader of City staff. Mike provides guidance to staff who implement the policies that our Council sets. He is an exceptional manager and I enjoy working with him.

Thanks to the dedication of these individuals and many others, the City of Mesa has celebrated many milestones over the past year. We are evolving in our role as the third largest city in the State, and our responsibilities as a regional player will continue to expand as our population climbs to well over half a million people in the next two decades. To give you the full impact of our growth, we have some graphics of our regional population in 1912, again in 1992, and the projections for 2025.

As I mentioned earlier, we celebrated a great victory in 2002 towards better managing our growth with the adoption of the Mesa 2025 General Plan Update. Again, I extend my thanks to all of our residents, City staff, members of the Citizens Joint Master Planning Committee and Councilmembers who worked diligently to successfully update the Plan and pass it at the November ballot box. Mesa 2025: A Shared Vision, is a roadmap for our future and will guide us in the task of creating a balance between our residents and the number of jobs available to them in Mesa.

The next component in our movement toward a balanced job-to-housing ratio at build-out is a 25-year budget-forecasting model. This model will enable us to look at our future population and examine the

costs to provide services, as well as look at existing resources to see if we can afford to build and maintain the roads, sewer, water lines, Police and Fire stations, courts, parks and other facilities and infrastructure. The question must be asked, "Are our existing revenue sources, sales tax, utility revenues and State-shared revenues sustainable over time?" If not, we must look for other options.

Just as we work with all of our community stewards to capitalize on their strengths and talents, we recognize that Mesa can benefit by working with regional and Statewide resources. To this end, we participated in a mass tetanus immunization of 3,000 high school students to simulate the type of effort that might need to be undertaken in the event of a terrorist attack. This was the largest exercise of its kind anywhere in the country.

September 11th has changed the way we think, and our City staff, especially our Emergency Management Coordinator Cliff Puckett, has done an excellent job of working with our regional and national partners to create a framework for a coordinated response if the unthinkable were to happen.

I hosted a Mayors Conference on Weapons of Mass Destruction to coordinate with the mayors from neighboring communities and create a Crisis Response Plan. I sincerely hope that nothing happens to necessitate putting the Plan into action, but if it does, we're ready.

On the home front, literally speaking, we have created a Task Force to construct a Housing Master Plan for Mesa. This group of 15 residents is equally balanced with proponents of affordable, executive and middle class housing. Because the makeup of the committee is so diverse, we are confident they will produce a document that is balanced and offers options for every segment of the population.

We are also working with Williams Gateway Airport Authority to market the airport. In December, we welcomed Senator John McCain to the passenger terminal and used the visit as an opportunity to promote our plans to begin passenger service at the airport in 2003. We welcomed many new businesses to Williams Gateway Airport in 2002 and are confident that 2003 will be a year of continued growth for the airport and the economic center surrounding it.

2002 was also an important year for transportation as a special Citizens Advisory Committee began the daunting task of evaluating Mesa's transportation needs. Ultimately, the group recommended that we seek a tax increase to help fund much needed transportation improvements. However, we, as a Council, decided that the timing was not right because instituting a new tax during the current economic downturn could create a burden on our residents. Realizing that our ability to provide services to our residents is determined by our revenues, we've refocused our energies on a related effort: gaining approval for the extension of the half-cent Maricopa County sales tax currently set to expire in 2005. This Countywide tax has funded our freeways for two decades, and an extension of this important revenue source will enable us to keep pace with growth and provide comprehensive transportation options for our residents. I am a supporter of a "Return to Sender" concept, wherein a portion of the sales tax extension is returned to the local municipality from which it came. Using the concept of "Return to Sender," I am confident the majority of our transportation needs can be met.

In Mesa, we will celebrate another segment of freeway with the opening of the 202 to Higley on Saturday, January 11. The festivities begin at 8:30 a.m. and the dedication is at 9 a.m. Everyone is welcome. Please enter at Higley on the westbound side.

As I am sure you have learned from Governor Hull's announcement, rubberized asphalt will quiet this segment of freeway -- and our entire regional system, with the first rubberized section from McKellips to Val Vista completed in 2004.

On the regional front, we continue to work with our neighbors in the Salt River Pima-Maricopa Indian Community to create a vibrant riparian habitat in the abandoned Salt River bed. Va'Shlay Akimel, which is the Salt River Pima language meaning "Salt River," will distinguish our region and serve as a model for future river restoration projects throughout the country. We have before and after photos to illustrate the positive impacts our combined efforts will have on the environment.

There is a lot of work ahead in 2003 and our endurance may be tested as we work through a challenging budget year. We are continuing with the selective hiring freeze for non-Public Safety personnel and will look for more ways to reduce spending over the next several months. We may have to make tough decisions, but we are not alone. The State budget is \$1 billion short and the Legislature may ask cities to take over State obligations. This State budget crisis, a potential war in Iraq, nuclear weapons in Korea, each of these have an impact on Mesa's economy.

Despite these challenges, both global and local, Mesa's residents, business leaders, City staff members and elected representatives are united under one common goal: to optimize Mesa's potential. And in looking at the incredible resources we have both in people and in partnerships already working on behalf of Mesa, I am certain that we will succeed.

I started the State of the City with a joke about politicians; however, I don't want to make light of all that we have accomplished in 2002 or the seriousness of the job. As Mesa's elected Councilmembers and Mayor, we have many important decisions ahead of us. I am confident that we are up to the challenge and we will continue to make Mesa an outstanding place to live, learn, work, play and shop. Thank you.

1. 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 with an asterisk (*) were approved with one Council action.

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

Carried unanimously.

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

Minutes from the December 12, 16 and December 19, 2002 City Council Meetings.

2.1 Consider the City Manager's recommendation to appoint Bryan Raines as Neighborhood Services Manager.

City Manager Mike Hutchinson advised the Council that he is pleased to recommend the appointment of Bryan Raines as Neighborhood Services Manager. He explained that Mr.

Raines, who has been a City employee for almost 20 years, has served in various capacities throughout the organization, and for the last year and a half, has served as the Acting Interim Neighborhood Services Manager. Mr. Hutchinson stated that Mr. Raines has performed in an exemplary manner in this role and added that he is confident that he will continue to do so in the future.

It was moved by Councilmember Jones, seconded by Vice Mayor Kavanaugh, that the recommendation of the City Manager to appoint Bryan Raines as Neighborhood Services Manager, be approved.

Carried unanimously.

Mayor Hawker congratulated Mr. Raines on his new appointment.

3. Conduct a public hearing for the following annexations.

- a. **A01-3** Annexing areas south of Broadway Road to Wier Avenue, west of 110th Street to Mountain Road (38± acres). Initiated by various property owners in the proposed annexation area.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of areas south of Broadway Road to Wier Avenue, west of 110th Street to Mountain Road.

Jim Stoltzner, 11031 East Vine Avenue, a citizen within the annexation area, expressed support for City staff to proceed with the annexation process of the proposed area. He commented that in conducting a survey of the surrounding neighborhood, many of the residents expressed support for annexation into the City of Mesa.

Dennis Junis, 11031 East Broadway Road, also a resident in the area, advised that he was never surveyed by Mr. Stoltzner relative to this issue and that he was unaware of tonight's public hearing until he read about it in the newspaper. He requested that City staff provide him with information relative to the annexation process.

In response to a question from Mayor Hawker, Planning Director Frank Mizner clarified that tonight's public hearing is only the first step in the annexation process and that the City is not approving annexation of the property at this time. He explained that if the Council directs staff to initiate annexation of the area, the official annexation process would commence. Mr. Mizner stated that annexation petitions would be distributed for the property owners' signatures if they support annexation. He advised that staff is available to meet with the residents to conduct a neighborhood meeting and to explain the pros and cons of annexation. Mr. Mizner noted that if the City receives a majority of signatures favoring annexation, staff will bring the matter back to the Council for consideration regarding the actual annexation. He added that staff must obtain the signatures of landowners representing over 50% of the number of parcels and also over 50% of the assessed valuation.

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

- b. **A02-5** Annexing areas east of Signal Butte Road to Mountain Road, and south of Elliot Road to Williams Field Road (943± acres). Initiated by the property owners.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of areas east of Signal Butte Road to Mountain Road, and south of Elliot Road to Williams Field Road.

Bud Alexander, 11506 East Quicksilver Avenue, President of the Mountain Ranch Homeowners' Association, addressed the Council and stated that the members of the Association are in support of the proposed annexation.

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

In response to a question from Mayor Hawker, Mr. Mizner clarified that there is no action required by the Council relative to agenda items 3a or 3b until such time as staff is in receipt of the signed annexation petitions.

In response to a question from Councilmember Thom regarding providing Mr. Junis with further information regarding this issue, Mr. Mizner encouraged Mr. Junis to direct any questions he may have to Tom Ellsworth with the Planning Department.

Councilmember Griswold stated the opinion that it is often advantageous for residents who live in County Islands to be annexed into Mesa not only because of various City services they will receive, but also because they will become eligible to vote in City elections.

Mayor Hawker stated that it is the consensus of the Council that staff initiate the annexation process regarding agenda items 3a and 3b.

4. Conduct a public hearing and introduction of the ordinance adopting the new drainage and general government development impact fees, and amending the existing park development impact fees.

Mayor Hawker announced that this is the time and place for a public hearing regarding the introduction of the ordinance to adopt the new drainage and general government development impact fees, and amending the existing park development impact fees.

Neil Barna, 1860 East Laurel Street, Chairman of the Board of the Mesa Chamber of Commerce, voiced a series of concerns regarding an increase in Mesa's impact fees, and commented that with regard to small business owners, such increases will be difficult to absorb. Mr. Barna added that the proposed fee increases will also hinder commercial speculative development that is important to the City of Mesa in the achievement of its General Plan.

Dan Reeb, 122 North Macdonald Street, a representative of The Reeb Group, concurred with the comments of the previous speaker and expressed concerns regarding the new drainage impact fees. He cited, as an example, several projects on the south side of the Superstition Freeway that his firm is currently developing which do not have City storm drains. He advised that it became necessary to make arrangements with other entities to provide drainage to those locations, and stated that those costs will ultimately be passed on to the small business user.

Mr. Reeb commented that although the ordinance provides an appeal process to address issues such as this, it also adds another step that a developer must take in order to complete the project and to ultimately generate jobs in the community.

Bob McNichols, 5400 East McDowell Road, a Mesa businessman, spoke in opposition to the timing and method of implementation of the proposed impact fees. He advised that the new fees will negatively impact the small business owner and will make the City of Mesa less competitive compared to other Valley communities in attracting business and commercial development.

Former Councilmember Bill Jaffa, 1319 North Abner, addressed the Council and provided a brief historical overview of previous action by the Council to update Mesa's development fees. He noted that implementation of the second phase of this process includes a review of options to align existing and proposed impact fees more closely with local growth management objectives. Mr. Jaffa encouraged staff to consider not only the promotion of infill development, redevelopment and cluster housing options, but also special areas of development such as the Desert Uplands, the Groves, Lehi and Williams Gateway Airport.

Mayor Hawker advised that Tom Harrison, 2550 East Lockwood, submitted a speaker card and expressed opposition to this item, but did not wish to speak.

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

5. Consider the following liquor license applications:

*a. GREGORY M. SARGOVETZ, AGENT

New Beer and Wine Store License for Texaco Star Mart, 6806 East Brown Road. This is an existing business. The license previously held at this location by Bruce W. Holbrook, Agent, Texaco Star Mart, will revert back to the State.

*b. AMY S. NATIONS, AGENT

New Restaurant License for McGrath's Fish House, 1610 South Stapley Drive. This is a new building currently under construction. No previous liquor licenses at this location.

*c. JOHN WONG, OWNER

New Restaurant License for SN Pacific Rim Asian Kitchen, 1236 East Baseline Road, #102. This is a new building currently under construction. No previous liquor licenses at this location.

*d. ERNESTO AMAYA RASCON, AGENT

New Restaurant License for Sonora Steak and Bar, 1328 West University Drive. This is an existing business. The license previously held at this location by Esmeralda Jerez, Agent, Casa De La Cruz Mexican Grille, will revert back to the State.

6. Consider the following contracts:

- *a. Two-year renewal of the supply contract for sodium hypochlorite as requested by the Utilities Department.

The Purchasing Division recommends exercising the two-year renewal option with the original low bid by HASA, Inc. at \$144,872.40 based on estimated annual requirements. HASA, Inc. has agreed to a 5% decrease in price for this renewal term due to higher estimated usage.

- *b. Three-year supply contract for communications power systems as requested by the Communications Division.

The Purchasing Division recommends accepting the low bid by Power Conversion Products LLC for annual purchases estimated at \$92,058.51.

- *c. Three-year supply contract for "Intercom" Newsletter as requested by the Printing & Graphics Services Division.

The Purchasing Division recommends accepting the low bid by Ash & Associates for annual purchases estimated at \$27,592.49.

- *d. Deleted.

- *e. Three-year supply contract for 48-Volt communications system backup batteries as requested by the Communications Division.

The Purchasing Division recommends accepting the low bid by C & D Technologies, Inc. c/o NGH Battery Service Company, Inc. at \$52,812.26.

- f. Noche De Paz Lift Station Rehabilitation. City of Mesa Project No. 02-33.

This project proposes to rehabilitate the lift station located at the intersection of Naranja Avenue and Noche De Paz, just northeast of the Price and Guadalupe intersection. Work includes replacing the pumps, piping, stand-by generator, electrical service, station controls, wet well access, ferrous chloride tank and containment basin, and perimeter wall, and restoring wet well surface coatings.

Recommend award to low bidder, Hunter Contracting Company, in the amount of \$510,200.00 plus an additional \$51,020.00 (10% allowance for change orders) for a total award of \$561,220.00.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Kavanaugh-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

Vice Mayor Kavanaugh declared the motion carried unanimously by those voting.

With action on this agenda item being completed, Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

- *g. Taylor Junior High School Dive System Renovations. City of Mesa Project No. 02-209-001.

This project proposes to replace the dive system and repair the deck at Taylor Junior High pool. **(Only bid received)**.

Recommend award to low bidder, Shasta Industries, Inc., in the amount of \$66,050.00 plus an additional \$6,605.00 (10% allowance for change orders) for a total award of \$72,655.00.

- *h. Sossaman Road Wall and Landscaping. City of Mesa Project No. 02-53.

This project proposes to construct improvements including a new 5-foot wide sidewalk, landscaping, and an 8-foot high block screen wall from Hopi Avenue (just north of US 60) to Southern Avenue.

Recommend award to low bidder, W. L. Emshoff, in the amount of \$231,912.00, plus an additional \$23,191.20 (10% allowance for change orders) for a total award of \$255,103.20.

7. Consider the following resolutions:

- *a. Granting an Irrigation Easement to Salt River Project along Gilbert Road between Southern Avenue and University Drive – Resolution No. 7941.

This easement covers irrigation facilities relocated for the Gilbert Road Improvement Project.

- *b. Extinguishing two Temporary Retention Easements and a portion of a Controlled Vehicle Access Easement at 4620 East Baseline Road – Resolution No. 7942.

These easements are no longer required and conflict with the approved plat.

- c. Petitioning the Arizona State Land Commissioner and the State Selection Board to authorize the annexation of certain State Trust Lands located contiguous to the City of Mesa – Resolution No. 7946.

Planning Director Frank Mizner provided the Council with a brief overview of this agenda item. He reported that the purpose of this resolution is to request that the State Land Selection Committee allow the City to annex four parcels of State-owned land in southeastern Mesa. Mr. Mizner advised that at a Study Session held earlier today, Councilmember Thom suggested that the matter be continued to the January 27, 2003 Regular Council Meeting so that a representative of the State Land Department could appear before the Council and express the Department's support for the annexation.

Councilmember Walters stated that she is comfortable in proceeding with this item at this time.

In response to a question from Councilmember Walters, Mr. Mizner clarified that the City is simply requesting that the State Land Selection Board authorize the State Land Department to initiate the formal annexation process and stated that the City is not conducting a public hearing or adopting an annexation ordinance at this time.

Councilmember Thom commented that subsequent to a previous City Council Meeting when the City "down zoned" several parcels of State land, she was besieged with calls from State legislators who voiced opposition to the action. She stated that she would prefer that a representative from the State Land Department address the Council prior to the Council taking formal action on this matter. She also questioned the necessity for annexation of the property now due to the fact that the land will eventually be sold and the developer will most likely seek annexation into the City of Mesa at that time.

It was moved by Councilmember Thom that agenda item 7c be continued until the January 27, 2003 Regular Council Meeting to allow a representative from the State Land Department to address the Council relative to this matter.

Mayor Hawker stated that the motion dies for lack of a second.

Vice Mayor Kavanaugh stated that if the Council approves this agenda item tonight, it will still accomplish what Councilmember Thom is requesting. He explained that the City will obtain input from the State Land Selection Board and begin a dialogue to determine the Board's position regarding this property. Vice Mayor Kavanaugh advised that the City of Mesa has a responsibility to consider this area due to the fact it is likely to become a part of the City in the future. He also noted that if the parcels are sold, it would be in the best interest of the community if they are developed to Mesa's standards.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Griswold, that Resolution No. 7946 be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Kavanaugh-Walters-Whalen
NAYS - Thom

Mayor Hawker declared the motion carried by majority vote and Resolution No. 7946 adopted.

- *d. Authorizing the approval of the Assessment Diagram Map on the final assessments for the McKellips Road Scalloped Street Assessment project – Resolution No. 7943.

This project improved portions of McKellips Road from Country Club Drive to Gilbert Road.

- *e. Setting February 3, 2003 as the date for the public hearing on the final assessments for the McKellips Road Scalloped Street Assessment project – Resolution No. 7944

This project improved portions of McKellips Road from Country Club Drive to Gilbert Road.

- *f. Deleted.

- *g. Authorizing the sale to Salt River Project of easements over two City-owned parcels near 80th Street and Adobe – Resolution No. 7945.

These easements were requested by Salt River Project for transmission lines.

8. Consider the following ordinances:

- *a. Parking: 10-3-24 (F) (9). Prohibiting parking between the hours of 10:00 p.m. and 4:00 a.m. on Date between 8th Drive and 8th Avenue – Ordinance No. 4029.
- *b. Amending Section 11-2-2 of the Mesa City Code to rezone property at 420 West Dana Avenue, Rezoning Case No. CZ02-002TC, from TCB-1 to TCB-2 – Ordinance No. 4030.
- *c. Deleted.
- d. Relating to a Council Use Permit; repealing Ordinance 2769 and 3493 establishing the conditions for issuance of a Council Use Permit to Paz de Cristo – Ordinance No. 4036.

Human Services Coordinator Debbra Determan addressed the Council and provided a brief overview of this issue. She reported that the purpose of the agenda item is to repeal Ordinance Nos. 2769 and 3493 and to replace them with a new ordinance that establishes the conditions for the continued issuance of the Council Use Permit for Paz de Cristo. She stressed the fact that Paz de Cristo will continue their “Good Neighbor Policy” by working with the surrounding businesses and residential neighborhoods to resolve any problems that may arise as a result of the facility’s operation at the current site.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

Vice Mayor Kavanaugh clarified that tonight, the Council is not voting on the Council Use Permit, but rather the enabling ordinance that sets up the conditions for the Permit, and added that Paz de Cristo will continue to be subject to renewal of the Council Use Permit every two years.

Lynn T. Rees, 754 West 6th Avenue, a resident in the area, expressed concerns regarding the behavior of the people who obtain meals at Paz de Cristo. He stated that he has personally experienced a series of ongoing problems near his home including individuals urinating and

defecating outdoors, discarding empty liquor bottles, and rummaging through the neighborhood dumpsters. Mr. Rees commented that it should be the responsibility of Paz de Cristo to provide restrooms and shower facilities for the facility's guests.

Joyce Faith, 424 West Broadway, Director of Paz de Cristo, addressed the Council relative to this agenda item. She briefly outlined the services that the facility provides to assist low-income families and stressed the fact that Paz makes every effort to ensure that these services are carried out with minimal intrusion on the surrounding businesses and residential property owners.

Discussion ensued relative to staff's efforts to locate alternative restroom and shower facilities for the homeless individuals who frequent Paz de Cristo.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Ordinance No. 4036 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Kavanaugh-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

Vice Mayor Kavanaugh declared the motion carried unanimously by those voting and Ordinance No. 4036 adopted.

With action on this agenda item being completed, Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

- e. Amending Section 5-10-300 of the Mesa City Code pertaining to licensing requirements for privilege and excise taxes – Ordinance No. 4037.

Councilmember Thom advised that she requested that this issue be removed from the consent agenda. She stated the opinion that the City is not sufficiently addressing the possible loss of State-shared revenue, and commented that this item, like the previously discussed topic of impact fees (agenda item 4), is just another method of revenue enhancement. Councilmember Thom added that she has failed to see a concerted effort on the part of the City to reduce expenses, economize or to prioritize Mesa's budget.

Vice Mayor Kavanaugh commented that he and Councilmember Whalen served on the Finance Committee in May 2002 when this issue was initially recommended by staff. He explained that over the years, the Council has directed staff to review the fees that the City charges; that staff has recommended both fee reductions and increases, and that staff's recommendations are based on an analysis of the cost to the City to provide a service. Vice Mayor Kavanaugh stated that the ordinance, which would increase the "one-time" Privilege (Sales) and Use Tax License fee from \$25.00 to \$50.00, would enable Mesa to remain competitive with other communities that charge businesses an annual renewal fee.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that Ordinance No. 4037 be adopted.

Councilmember Walters noted that the ordinance also provides for a reduced license fee (\$5.00) for exhibitors engaging in business activities at Mesa Centennial Center events. She commented, in response to Councilmember Thom's remarks, that staff is making an effort to address and review the City's current budget shortfall, and added she would be hard pressed to say that cost cutting measures have not be implemented. Councilmember Walters further stated, however, that at the same time, the City has a responsibility to its residents to review fees that are charged to Mesa businesses.

Councilmember Whalen expressed support for the motion and concurred with Vice Mayor Kavanaugh and Councilmember Walters' comments. He explained that as a business owner himself, he too is required to be licensed in every city in the State in which he transacts business, and that every January he must undergo the arduous process of reapplying in each city for a new Privilege (Sales) and Use Tax License.

Councilmember Griswold voiced support for the motion and commented that the one-time fee increase should not be a barrier to companies wishing to conduct business in the City of Mesa.

Councilmember Jones noted that as a Mesa businessman, although he does not like the idea of having to pay for the privilege of collecting sales tax, he will reluctantly support the motion due to the fact staff is recommending a one-time fee for the issuance of a Privilege (Sales) and Use Tax License.

Mayor Hawker expressed support for the motion and stressed the fact that the ordinance would increase the one-time fee from \$25.00 to \$50.00 for the issuance of a Privilege (Sales) and Use Tax License for new applicants only. He added that a business owner with an existing license would not incur additional costs.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Kavanaugh-Walters-Whalen
NAYS - Thom

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4037 adopted.

9. Consider the following recommendations from the Utility Committee:

- *a. Moved to Item No. 9.1a.
- *b. Approving a request for water and sewer services outside Mesa's corporate limits for property on Recker Road, south of Baseline.

9.1. Introduction of the following ordinances and setting January 27, 2003, as the date of public hearing on these ordinances:

- *a. Amending Section 8-4-10 of the Mesa City Code pertaining to sewer charges set by separate ordinance as recommended by the Utility Committee.
- b. Adopting the new drainage and general government development impact fees, and updating the existing park development impact fees.

Councilmember Thom expressed opposition to this agenda item and stated the opinion that the City's budget shortfall most likely prompted staff to institute the proposed increases in development impact fees. She commented that in the March 2000 General Election, Mesa voters turned down a number of bond issues, including one regarding storm drainage, and that in her opinion, the new drainage impact fees are a "backdoor tax" to replace what the voters rejected. She suggested that staff focus their attention on balancing the City's budget as opposed to implementing these fees.

Mayor Hawker, in response to Councilmember Thom's comments, explained that development impact fees are not a "backdoor tax," but rather a direct correlation or nexus between what it costs a municipality to provide services and what is charged to the user. He noted that at today's Study Session, the City's consultant provided a clear and concise analysis of the manner in which he arrived at the calculations related to the development impact fees. Mayor Hawker also expressed appreciation to the speakers for attending tonight's meeting and providing insightful input/suggestions relative to this issue.

Vice Mayor Kavanaugh provided a brief historical overview regarding the assessment of development impact fees in the City of Mesa. He emphasized that because of the manner in which development impact fee statutes are structured in many states, communities must be specific in identifying the facilities which are the subject of the fees; that there must be a nexus between what is being charged for by a City and what it needs to replace, and that Mesa's development impact fees have been assessed in the past and are legally defensible.

Vice Mayor Kavanaugh further commented that what this agenda item will accomplish is to provide some additions to the range of impact fees that have been assessed in the City of Mesa. He explained that development impact fees for general governmental facilities are the norm in communities across the Valley and throughout the country, and added that the consultant's Impact Fee Study identifies existing facilities as opposed to an amorphous category of general government. Vice Mayor Kavanaugh concluded his remarks by stating that even with the proposed increase in development impact fees, the City of Mesa will still retain its competitive edge with the fees that are currently being charged by other Valley communities.

It was moved by Vice Mayor Kavanaugh, seconded by Mayor Hawker, that introduction of the ordinance adopting the new drainage and general government development impact fees, updating the existing park development impact fees, and setting January 27, 2003 as the date of public hearing on this ordinance, be approved.

In response to a question from Councilmember Walters, City Attorney Debbie Spinner clarified that if the development impact fees are introduced this evening as three separate ordinances, it would be necessary for the Council to vote on each item individually at the January 27, 2003 Regular Council Meeting.

Councilmember Walters suggested that if Vice Mayor Kavanaugh was willing to amend his motion with regards to the introduction of three separate ordinances, she would support the motion.

Vice Mayor Kavanaugh advised that he would amend his motion, with the assumption that the introduction of three separate ordinances would not pose any drafting issues.

Mayor Hawker concurred with the amended motion.

Ms. Spinner clarified that the introduction of three separate ordinances should not create any drafting problems and that the City Clerk will publish three ordinances as opposed to one. City Clerk Barbara Jones informed the Council that the ordinances would be published in the newspaper on Saturday, January 11, 2003.

Mayor Hawker noted that there is a motion and second before the Council to introduce three separate ordinances: the adoption of new drainage development impact fees; the adoption of general government development impact fees, and updating the existing park development impact fees.

Councilmember Griswold expressed appreciation to Councilmember Walters for her suggestion to separate the introduction of the various development impact fees into three ordinances. He stated that he is in favor of growth paying for itself, and added that he would like to research the methodology of the general government development impact fees in greater detail prior to the next Regular Council Meeting.

Councilmember Jones recommended that when the Council receives documentation reflecting development impact fee comparisons between Mesa and other Valley communities in the future, a property tax component not be included in the analysis.

In response to Councilmember Jones' comments, Deputy Building Safety Director Jeff Welker assured the Council that staff's comparisons do not include a property tax component. He explained that every two years, the City of Mesa participates in a development fee study with all Valley municipalities, and noted that neither property tax nor sales tax are not included in the study.

Councilmember Whalen commented that although he is supportive of the residential component of the impact fees, he has serious reservations regarding the business portion. He suggested that if the City is attempting to recruit new businesses into the community, it may be counterproductive at this time to adopt these new fees. He urged the Council to give serious consideration to this issue between now and the January 27, 2003 Regular Council Meeting.

In response to a question from Mayor Hawker, Mr. Welker clarified that per State law, the City of Mesa cannot separate out a particular land use type and exempt it relative to the manner in which the fee is calculated. He cautioned that if the Council elected to exempt a specific land use type, those costs would be borne out of Mesa's budget.

Councilmember Thom noted that she is continuously apprised by various staff members that the City is instituting and/or increasing various fees due to the fact that: 1. Mesa does not have a property tax, and 2. Mesa no longer has a sales tax on grocery store food sales. She stated the opinion that these issues have been a vehicle for laying blame for the City's budgetary problems and added that she is tired of hearing such excuses.

Mayor Hawker explained that he is in support of the motion not because the City of Mesa is trying to "pad the budget," but because development should pay its own way, and impact fees are a means by which to achieve that goal.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Kavanaugh-Walters
NAYS - Thom-Whalen

Mayor Hawker declared the motion carried by majority vote.

10. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding Ordinances:

- *a. **Z02-32** The northeast corner of Power Road and McDowell Road (11.28 acres). Rezone from R1-90 DMP (conceptual C-2) to C-2 BIZ DMP. This case involves the development of a retail shopping center including an Eckerd Drugstore and various retail and office space. Power and McDowell Associates, LLC, owner; Ralph Pew, Pew & Lake P.L.C., applicant – Ordinance No. 4031.

P&Z Recommendation: Approval with conditions (Vote passed 6-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. All street improvements, including entire Power Road and McDowell Road frontages, and perimeter landscaping for the Eckerd Drugstore parcel to be installed in the first phase of construction.
5. Compliance with all requirements of the Design Review Board, to include citizen participation: Notification to include The Board of Directors of the Las Sendas and Spook Hill Homeowners Associations. This shall include full compliance with the landscape requirements for arterials.
6. 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.
7. Compliance with all requirements of the Subdivision Technical Review Committee.
8. Review and approval of a Special Use Permit by the Board of Adjustment for a Comprehensive Sign Plan.
9. Plant material within the right-of-way shall meet the requirements of Section 11-15-3-A.
10. Compliance with the following terms of the letter from Ralph Pew to Frank Mizner dated November 20, 2002; this letter is incorporated into the ordinance by reference. The property owner agrees to prohibit the following land uses:
 - a. Auto service car wash and gas dispensing facilities.
 - b. "Drive-in Restaurants" and restaurants with "Drive-thru Facilities" as defined in Mesa Code Section 11-1-6. This restriction shall not

prohibit restaurants that serve food primarily for on-site consumption and that have a “pick-up window” or a “take-away” area as a subordinate and ancillary convenience to customers.

- c. Storage buildings or storage of recreational vehicles and boats.
 - d. Adult oriented retail and/or entertainment facilities as defined in Mesa City Code, Title 6, Chapter 16.
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 (prior to the issuance of a building permit).

- *b. **Z02-33** The northwest corner of Southern Avenue and Greenfield Road (1.55 acre). Site Plan Modification. This case involves the development of an Eckerd Drugstore. Unicorp National Developments, Inc., owner; Matthew Seaman, applicant; represented by Sean Lake, Pew and Lake P.L.C. – Ordinance No. 4032.

P&Z Recommendation: Approval with conditions (Vote passed 5-1)

- 1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
- 2. Compliance with all City development codes and regulations.
- 3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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. All street improvements for the entire frontages of Southern Avenue and Greenfield Road for Greenfield Court and perimeter landscaping for this parcel to be installed in the first phase of construction.
- 6. Compliance with all requirements of the Design Review Board,
- 7. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
- 8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
- 9. The final plat for Greenfield Court is to be recorded prior to the issuance of any building permits.

- *c. **Z02-34** The 200 block of South 63rd Street, west side, through to Arbor Avenue, (3.6 acres). Site Plan Modification. This case involves the development of office buildings. Jere Planck, owner; Tim Rasnake, applicant – Ordinance No. 4033.

P&Z Recommendation: Approval with conditions (Vote passed 6-0)

- 1. Compliance with the basic development as described in the project narrative and as shown on the site plan, and elevations submitted,

(without guarantee of lot yield, building count, lot coverage) except as noted below.

2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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 in the first phase of construction.
6. Compliance with all requirements of the Design Review Board.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *d. **Z02-35** The 400 block of East McKellips Road, south side, (3.36 acres). Rezone from C-2 to C-2 P.A.D. This case involves the development of an office complex. Devin Warren, owner; Sherman Cawley, Cawley Architects, Inc., applicant – Ordinance No. 4034.

P&Z Recommendation: Approval with conditions (Vote passed 6-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Design Review Board.
7. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variations outlined in the staff report.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
9. Compliance with all requirements of the Subdivision Technical Review Committee.

- *e. **Z02-36** The northwest corner of McDowell Road and Recker Road (2.47 acres). Site Plan Modification. This case involves the development of a CVS Pharmacy. Brian J. Jordan, Kutck Rock LLP, owner; Susan Stewart, L.E.A.D.S., applicant – Ordinance No. 4035.

P&Z Recommendation: Approval with conditions (Vote passed 6-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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.
6. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
8. Provide future vehicular cross-access to property to north along the Recker Road frontage, upon redevelopment of the current mini-storage facility and with the agreement of the adjacent property owner.
9. Building elevations and materials to comply with design guidelines for adjacent Longbow Project as submitted with case Z02-01.
10. Landscaping for this development to match the Longbow landscaping palette as shown in case Z02-01.

11. Consider the following subdivision plat:

- *a. "TIVOLI AT AUGUSTA RANCH, – (Council District 6) – 2024 South Baldwin (west side) 171 R-3 PAD DMP condominium units (13.19 acres). D.R. Horton, Inc., a Delaware Corporation, owner; Infinity Engineering Services, Ltd., engineer.

12. Items from citizens present.

Lynn T. Rees, 754 West 6th Avenue, reiterated his comments related to agenda item 8d and suggested that the Council consider the placement of a City park near a local men's shelter to provide the homeless community with a place to congregate.

13. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:40 p.m.

KENO HAWKER, 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 6th day of January 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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