

COUNCIL MINUTES

September 19, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on September 19, 2005 at 5:46 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones

Invocation by President Wallace Haws, The Church of Jesus Christ of Latter-day Saints.

Pledge of Allegiance was led by Joseph Poletti, Boy Scout Troop No. 7.

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. 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 Walters, seconded by Councilmember Jones, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the August 18, 29, September 6, and 8, 2005 Council meetings.

3. Conduct a public hearing to release the petition for signatures for the following proposed annexation:

- 3a. **A05-08 (District 5)** Annexing land located on the southeast corner Hawes and Thomas Roads. (71.76 ± ac.). Initiated by Paul Gilbert representing City View Properties, LLC for the development of a residential subdivision.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexation of land located on the southeast corner Hawes and Thomas Roads. (71.76 ± ac.).

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

4. Consider the following liquor license applications:

*4a. ROBERT L. NELSON, CHAIRPERSON

Special Event Liquor License application for Robert L. Nelson, Chairperson, Anthology, Inc., a one-day charitable event to be held on Thursday, September 29, 2005, from 12:00 p.m. to 11:59 p.m. at 236 S. Mesa Drive. District #4.

*4b. CHRISTOPHER MATTHEW CARPENTER, PASTOR

Special Event Liquor License application for Christopher Matthew Carpenter, Pastor, Christ the King Catholic Church, a one-day religious event to be held on Saturday, October 29, 2005, from 5:00 p.m. to 10:00 p.m. at 1551 E. Dana Avenue. District #4.

*4c. DANIEL JOSEPH MARTIN, CHAIRPERSON

Special Event Liquor License application for Daniel Joseph Martin, Chairperson, Good Life MHC LLC, a one-day civic event to be held on Monday, January 23, 2006, from 11:00 a.m. to 6:00 p.m. at 3403 E. Main Street. District #2.

*4d. DANIEL JOSEPH MARTIN, CHAIRPERSON

Special Event Liquor License application for Daniel Joseph Martin, Chairperson, Good Life MHC LLC, a one-day civic event to be held on Sunday, February 5, 2006, from 2:00 p.m. to 10:00 p.m. at 3403 E. Main Street. District #2.

*4e. DANIEL JOSEPH MARTIN, CHAIRPERSON

Special Event Liquor License application for Daniel Joseph Martin, Chairperson, Good Life MHC LLC, a one-day civic event to be held on Friday, March 3, 2006, from 10:00 a.m. to 6:00 p.m. at 3403 E. Main Street. District #2.

*4f. DANIEL JOSEPH MARTIN, CHAIRPERSON

Special Event Liquor License application for Daniel Joseph Martin, Chairperson, Good Life MHC LLC, a one-day civic event to be held on Friday, March 17, 2006, from 10:00 a.m. to 6:00 p.m. at 3403 E. Main Street. District #2.

*4g. DANIEL JOSEPH MARTIN, CHAIRPERSON

Special Event Liquor License application for Daniel Joseph Martin, Chairperson, Good Life MHC LLC, a one-day civic event to be held on Saturday, December 31, 2005, from 3:00 p.m. to 1:00 a.m. at 3403 E. Main Street. District #2.

*4h. JOSEPH SPADARO, PROGRAM DIRECTOR

Special Event Liquor License application for Joseph Spadaro, Program Director, St. Bridget's Knights of Columbus, a one-day fraternal event to be held on Sunday, October 16, 2005, from 4:00 p.m. to 7:00 p.m. at 2213 N. Lindsay Road. District #5.

*4i. MARY (MIMI) HOFFMAN, CHAIRPERSON

Special Event Liquor License application for Mary (Mimi) Hoffman, Chairperson, Saint Timothy's Catholic Academy, a one-day religious event to be held on Saturday, October 22, 2005, from 6:00 p.m. to 11:30 p.m. at 2520 S. Alma School Road. District #3.

*4j. JAN M. KHAN, AGENT

New Beer & Wine Store License for East Mesa Market, 723 E. Main Street. This is an existing business. The license previously held at this location by Lisa Irene Khan, Agent, East Mesa Liquors will revert back to the State. District #4

*4k. DAVID RODOLFO AGADO, AGENT

New Restaurant License for Buffalo Wild Wings Grill and Bar, 1130 W. Grove Avenue, Ste.106. This is new construction. No previous liquor license at this location. District #3.

*4l. MARIA ISABEL BARRON, AGENT

New Restaurant License for Taco Y Mariscos La Sirenita II, 1002 E. Main Street. This is an existing building. No current Liquor License at this location. District #1.

5. Consider the following contracts:

*5a. Three-year supply contract for Gas Regulators for warehouse inventory as requested by the Gas Administration Gas Utility Division. (2005160).

The Purchasing Division recommends accepting the low bid meeting specifications by Actaris U.S. Gas, Inc. for expenditures estimated at \$112,562.74 annually, including applicable taxes and contingencies.

- *5b. Two-year renewal of supply contract for Emergency Vehicle Equipment as requested by the Communications Division. (2002163).

The Purchasing Division recommends authorizing the two-year contract renewal as follows:

Arizona Emergency Products - \$65,512.09
First In, Inc. - \$11,449.41
Adamson Industries Corp. - \$ 3,058.41

The combined award is \$80,019.91 annually, including applicable taxes and contingencies, based on estimated requirements.

- 5c. 54-inch reclaimed waterline, Greenfield Water Reclamation Plant to Ocotillo Road, City of Mesa Project No. 01-923-001.

This project will construct the north half of the reclaimed waterline from the Greenfield Water Reclamation Plant (GWRP) west along Queen Creek Road to Val Vista Road, then south from Queen Creek Road along Val Vista Road to Ocotillo Road. Improvements include the installation of 10,100 lineal feet of 54-inch reclaimed water line.

Recommend award to low bidder, T&T Construction, Inc., in the amount of \$4,225,285.00 plus an additional \$422,528.50 (10% allowance for change orders) for a total award of \$4,647,813.50.

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

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

Upon tabulation of votes, it showed:

AYES – Griswold-Jones-Rawles-Thom-Walters-Whalen
NAYS – None
ABSTAIN – Hawker

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

6. Consider the following resolutions:

- *6a. Approving and authorizing the City Manager to execute the corresponding Grant Agreement #E6S22 between the Arizona Department of Transportation (ADOT) and the City of Mesa to construct an expanded ramp/apron in the northwest quadrant of Falcon Field Airport just to the southwest of the existing Echo Ramp – Resolution No. 8591.

- *6b. Adopting a resolution of intention to form the Longbow Improvement District and approving and authorizing the City Manager to execute the Waiver and Development Agreement – Resolution No. 8592.
- *6c. Ordering the work relative to the Longbow Improvement District in the City of Mesa, Arizona – Resolution No. 8593.
- *6d. Authorizing the City Manager to execute an agreement between the City of Mesa and the Department of Public Safety for funding that will cover 100% of the cost for two new sport utility vehicles (SUV) and related equipment for commercial vehicle safety inspection – Resolution No. 8594.
- *6e. Authorizing the City Manager to execute an agreement between the City of Mesa and the Governor's Office of Highway Safety for supplemental overtime for sustained DUI Taskforce Enforcement through January 2006 – Resolution No. 8595.

6.1 Consider the following recommendation from the Utility Committee:

- *6.1a. Declaring that a Stage 1 drought alert is no longer necessary.
- 6.1b. Approving Option 2 of the request to provide water and sewer service outside the City limits to twelve properties requested by Signature Properties L.L.C.

Utilities Attorney Chuck Cahoy stated that the applicant's attempts to annex into the City have been unsuccessful, and that the applicant is requesting that City services be provided to the project prior to annexation. He advised that the applicant has indicated a commitment for future annexation into the City. He noted that the City does not permit utility service to properties located outside of the City limits unless the applicant enters into a Utilities Services Agreement, which requires Council approval.

In response to a question from Mayor Hawker, Mr. Cahoy noted that an annexation process is underway for a property contiguous to that of the Signature Properties, which would enable the applicant to move forward with the annexation process in the future.

Mayor Hawker stated that he would not support the proposal to provide City utility services to the property at this time, and he noted that an annexation opportunity would exist in the future when the adjoining property was annexed into the City. He added that the City is unable to enforce annexation requirements after utility services have been connected.

Joe Courtney III, 8744 East Oak, the applicant, addressed the Council and advised that his efforts to annex into the City included purchasing additional property to link his property to Thunder Mountain at a time when that development was proposing to be annexed into the City, but he noted that the annexation effort failed. He explained that his future homeowners support annexation, and that he would like the utility lines installed prior to completing the roads and streets. Mr. Courtney stated that he was willing to sign an agreement that indicated his commitment to annexation.

Mr. Cahoy said that Mr. Courtney's willingness to sign an agreement was a good indication of his intent, but he noted that these types of agreements are not legally enforceable.

In response to a question from Vice Mayor Walters, Mr. Cahoy stated the opinion that approving the applicant's request for service would not jeopardize the future enforcement of the City's regulation.

Discussion ensued relative to the terms of the General Motors' agreement, which did not require annexation; that the applicable ordinance has a provision for exceptions; that Mr. Courtney is willing to pay the necessary fees upon annexation; and that the Signature Properties' homes are built to meet and/or exceed the City of Mesa's standards.

In response to questions from Councilmember Rawles, Mr. Courtney advised that he paid \$1.4 million to purchase additional parcels in an effort to connect to the proposed Thunder Mountain annexation. He also advised that the sales agreements signed by his homeowners include a stipulation that they support annexation into the City of Mesa.

Councilmember Rawles stated the opinion that Mr. Courtney has demonstrated his intent to follow through on annexation, and he expressed support for approving the request to provide utility services.

Councilmember Griswold also expressed support for approving the request.

Responding to a question from Mayor Hawker, Mr. Cahoy advised that the parties propose to enter into a Utilities Services Agreement, which requires the developer to meet City building standards and to pay in lieu development fees. He confirmed that these requirements are included in Option 2, as outlined in the Council Report.

It was moved by Councilmember Rawles, seconded by Councilmember Griswold, that Option 2 be approved.

Upon tabulation of votes, it showed:

AYES – Griswold-Jones-Rawles-Thom-Walters-Whalen
NAYS – Hawker

Mayor Hawker declared the motion carried by majority vote.

6.2. Consider the following ordinance:

- *6.2a. **CUP05-001TC (District 4)** 310 W. Main Street. Located on the NEC of Main Street and Country Club Drive. Request to obtain a Council Use Permit to allow a drive-thru lane in the TCC Zoning District for a new Taco Bell located at 310 W. Main Street. Mark Peterson, Hualapui Investments, owner; Greg Hitchens, Hitchens Associates Architects, applicant – Ordinance No. 4459. (*Property owners and tenants within 300 feet were notified by mail.*)

DDC Recommendations: Approval with conditions. (Vote: Passed 5-0)

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

- *7a. **Z05-80 (District 6)** The 8800 block of East Germann Road (north side). Located north of Germann Road and west of Ellsworth Road (16.3 ac). Rezone from PEP and M-1 to O-S PAD, C-1 PAD and M-1 PAD and Site Plan Review. This request will allow for the development of a business park. Anson L. Call, owner; Randolph L. Carter, applicant – Ordinance No. 4460. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations.)*

P&Z Recommendation: Approval with conditions. (Vote: 4-1, Boardmember Finter abstaining (Boardmembers Adams and Salas absent).

- *7b. **Z05-81 (District 6)** The 3200 – 3300 block of South Sossaman Road (east side). Located at the half-mile point between Guadalupe and Elliot Roads, at and just south of the power line easement on Sossaman Road (22.61 ac). Rezone from R1-6 and M-1 to AG and Site Plan Review. This request will allow for the construction of the Paloma Community Church and several accessory sports fields. Pastor Al Wilsey, Paloma Community Church, owner; Steve Anderson, applicant – Ordinance No. 4461. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations.)*

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Adams and Salas absent).

- *7c. **Z05-82 (District 6)** The 9100 – 9200 block of East Guadalupe Rd (south side). Located at the southwest corner of Guadalupe Road and Ellsworth Road (1.6 ac). Site Plan Review. This request will allow for the development of a new convenience store and fuel canopy. Tim Holeman, owner; Justin Gubler, Architekton, applicant Annexing land located on the southeast corner Hawes and Thomas Roads. (71.76 ± ac.) – Ordinance No. 4462. *(Contacted registered neighborhoods and homeowners associations.)*

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Adams and Salas absent).

- *7d. **Z05-83 (District 6)** The 5600 – 6000 block of South Mountain Road (west side). Located south of Ray Road and east of Signal Butte Road (558± ac). Rezone from R1-6 DMP to R-2 PAD DMP, modification to the Mountain Horizons Development Master Plan and Site Plan Review. This request will allow for the development of a cluster home project. Pulte Homes, Tim Loughrin, owner; Sean Lake, Pew & Lake, PLC, applicant – Ordinance No. 4463. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations.)*

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Adams and Salas absent).

- 7e. **Z05-84 (District 5)** The 4200 block of East McDowell Road (south side). Located west of Greenfield Road and south of McDowell Road (19.28 ac). Site Plan Review. This request will allow for the development of a business park. Mike Wilson, owner; Michael Jorgensen, applicant – Ordinance No. 4465. LEGAL PROTEST FILED. $\frac{3}{4}$ VOTE REQUIRED. *(Contacted registered neighborhoods and homeowners associations.)*

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Adams and Salas absent).

Ralph Pew, 10 West Main Street, the applicant's attorney, stated that 22 years ago the 20-acre site was zoned M-1. He advised that the proposed plan, which complies with the City's design criteria and development standards, has staff's recommendation for approval and the Planning and Zoning Board's unanimous recommendation for approval. Mr. Pew outlined the property issues that are presently in litigation, and he stated the opinion that the issues are private matters that will be addressed by the court system. Mr. Pew further advised that the property is designated for "employment use" in the General Plan.

Rick Thomas, an attorney with Davis Miles, 560 West Brown, addressed the Council on behalf of Alo Investments and Al Gardner. He advised that a water line easement, which has been in place on the applicant's property since 1985 and the irrigation source for Mr. Gardner's citrus trees, was moved by the applicant onto Mr. Gardner's property without permission. Mr. Thomas advised that the easement also provided water to City property located south of these parcels. He noted that the easement issue is presently in litigation, and he requested that the Council deny the applicant's request.

Al Gardner, 3805 East McClellan, the owner of the adjacent property, stated that his concern relates to the future location of the easement in order to save the mature citrus trees.

Mr. Pew expressed the opinion that the issue of the easement location does not affect the site plan, and he requested that the Council approve the site plan.

Planning Director John Wesley stated that the site plan meets the City's Code requirements. He reported that staff was unable to locate a record of a water line easement. He noted that staff was recently advised that water from that site was being delivered to City property, and he added that staff continues to research the issue. Mr. Wesley expressed the opinion that the applicant's site could accommodate a ditch, and he advised that the applicant would be required to bring forward any future site plan changes for City approval. He also noted that a court decision to locate the easement on this property after the site is fully developed could result in the applicant incurring significant expenses.

It was moved by Councilmember Rawles, seconded by Councilmember Jones, that Ordinance No. 4465 be adopted.

Carried unanimously.

- *7f. **Z05-85 (District 6)** The 2400 – 2500 block of South Signal Butte Road (east side). Located south of Baseline Road and east of Signal Butte Road (19 ± ac.). Rezone from AG to R1-6 PAD-DMP; Site Plan Review and Modification of the Sunland Springs Village Development Master Plan. This request will allow for the development of a townhome

project as part of the Sunland Springs Village Development Master Plan. Craig Ahlstrom, Farnsworth Development, owner; Jeff Giles, applicant – Ordinance No. 4464. (*Held neighborhood meeting and contacted homeowners associations.*)

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Adams and Salas absent).

8. Items from citizens present.

There were no items from citizens present.

9. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:45 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 19th day of September 2005. 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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