

# COUNCIL MINUTES

September 8, 2003

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on September 8, 2003 at 5:50 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## STAFF PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

(Vice Mayor Kavanaugh attended the meeting through the use of teleconferencing equipment.)

Mayor Hawker requested a moment of silence for the victims of the September 11, 2001 tragedy. He acknowledged Mesa business owner Balbir Singh Sodhi, who was also a victim as a result of the catastrophic event.

Invocation by Pastor Blaine C. Mays, DD, Community Church of New Thought.

Pledge of Allegiance was led by Councilmember Rex Griswold.

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 Councilmember Whalen, 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 June 12, 19, August 14, 21, 25 and 28, 2003 City Council meetings.

3. Conduct a public hearing for the following annexations:

- a. Deleted.
- b. Deleted.
- c. Deleted.

4. Conduct a Public Hearing on the Baseline Road Scalloped Street Assessments, City of Mesa Project #98-41.

This project installed street improvements along portions of Baseline Road from Horne to 24<sup>th</sup> Street and assessed a portion of the costs to the adjacent property owners under the Scalloped Street Assessment Laws. (See item no. 8a)

Mayor Hawker announced that this is the time and place for a public hearing regarding the Baseline Road Scalloped Street Assessments, City of Mesa Project #98-41.

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

5. Consider the following liquor license applications:

\*a. REV. CHRISTOPHER CARPENTER, CHAIRMAN

Special Event License application of Rev. Christopher Carpenter, Chairman, Christ the King Catholic Church, a one-day charitable event to be held Saturday, November 1, 2003, from 5:00 p.m. to 10:00 p.m., at 1551 East Dana Avenue, Christ the King Church.

\*b. JOHN A. HUGHES, BOARDMEMBER

Special Event License application of John A. Hughes, Boardmember, Mesa Association of Sports for the Disabled, a one-day event to be held Saturday, October 4, 2003, from 5:30 p.m. to 10:00 p.m., at 3403 East Main Street, Good Life Resort.

\*c. BEVERLEE BOONE KROLL, AGENT

New Restaurant License for Weathervane Restaurant, 7303 East Main Street, Suite 15. This is an existing business. The Restaurant License previously held at this location by Frank Jeffrey Yauger, Agent, The Weather Vane Restaurant, will revert back to the State.

6. Consider the following contracts:

- a. Laboratory Information Management Solution (LIMS) for the Police Department as requested by the Information Services Division (ISD).

The Purchasing Division endorses the Evaluation Team's recommendation to accept the proposal from Forensic Technology WAI Inc. (FTI) for an amount not to exceed \$210,962.46. The FTI proposal received a score of 896 points (89.6% of the maximum).

The Purchasing Division further recommends approving:

An expenditure of \$66,871.74 from the existing file server supply contract with CompuCom Systems, Inc.; and \$27,783.42 for project contingencies.

The combined total award is therefore \$305,617.62 (\$259,000 of this total will be funded by Arizona Criminal Justice Commission (ACJC) grants, with the remaining \$46,617.62 to be paid out of Forensic Services Crime Laboratory Assessment funds.)

This purchase was reviewed by the Police Committee on August 25. They recommended approval of this purchase.

Materials Management Director Sharon Seekins provided the Council with a brief overview of the process undertaken by the Evaluation Team to arrive at its recommendation to accept the proposal from Forensic Technology WAI Inc. (FTI). She explained that despite the fact that JusticeTrax, a well-respected competitor to FTI, has filed a protest with regard to the proposal, staff remains convinced that the evaluation process was conducted in a fair and thorough manner and that FTI is highly qualified to be the recommended contractor.

Simon Key, President of JusticeTrax, 1 West Main Street, addressed the Council and commented that despite the characterizations of staff and reports in the media, JusticeTrax is not protesting or challenging the decision to award the contract to FTI. He explained that his sole purpose in addressing the Council is to shed light on the fact that the acquisition process is at least flawed and possibly unfair.

Rainer Zimmermann, a representative of FTI, 5757 Cavendish Boulevard, Cote St. Luc, PQ, Canada, stated that FTI is excited at the prospect of working with the City of Mesa and looks forward to a long lasting and mutually beneficial relationship.

Crime Laboratory Administrator Jon Kokanovich responded to a series of questions from the Councilmembers.

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

Carried unanimously.

- \*b. Three-phase pad mounted switchgear as requested by the Electric Division of Utilities.

The Purchasing Division recommends accepting the bid by S & C Electric c/o Young Power Equipment at \$38,842.01 including applicable sales tax.

7. Introduction of the following ordinance and setting September 22, 2003 as the date of public hearing on these ordinances:

- \*a. Amending Sections 11-1-6 and 11-13-2 of the Zoning Ordinance regarding "Special Events."
- \*b. Amending Sections 11-6-2 and 11-13-2 of the Zoning Ordinance regarding "Vehicle Display Platforms."
- \*c. **A03-1** Annexing the intersection of Ellsworth Road and University Drive. (Council District 5) (58.2± acres) Initiated by the property owners.
- \*d. **CZ03-004TC** 450 North Center Street (Council District 4) Rezone from C-2 to TCB-1. JS&G Family Limited Partnership, owner; Steven Mastroni, applicant/owner.

DDC Recommendation: Approval (7-0)

- \*e. Amending various sections of the Mesa City Code regarding the following traffic modifications:

No Parking: 10-3-24(D) (Full Time No Parking)

On Virginia Street from a point 250 feet east of Olympic to a point 220 feet east of Platina (Remove prohibition).

- f. Amending Section 4-1-1 (R) of the Mesa City Code relating to providing a no-step entry at all new model home complexes as recommended by the General Development Committee.

Vice Mayor Kavanaugh, as Chairman of the General Development Committee, provided the Council with a brief overview of this agenda item. He explained that the proposal, which has received the support of the local development community, would provide for a no-step entry on at least one exterior door at one model home per new model home complex. Vice Mayor Kavanaugh stated that Phoenix has already adopted a similar ordinance.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, to introduce the above-referenced ordinance and set September 22, 2003 as the date of the public hearing on the ordinance.

Councilmember Thom expressed opposition to the motion and commented that the proposal is not a mandate by either the State or Federal government. She added that it is not the purpose of the Council to tell homebuilders what should or should not be included as options in model homes.

Mayor Hawker said that he would not support the motion. He commented that the no-step entry is an option that homebuyers could consider, but stated that it should not be a requirement that homebuilders display the entry as an option in their model homes.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- \*g. Amending Title 4, Chapter 9 of the Mesa City Code, relating to an administrative program to exempt certain industrial facilities with 24-hour supervision from the normal plan review and inspection process as recommended by the General Development Committee.
- \*h. Amending Sections 11-19-5 and 11-19-8 creating a definition of and establishing provisions regarding the regulation of electronic message displays.
- i. Amending Title 9, Chapter 7 of the Mesa City Code pertaining to Community Antenna Television Systems.

Councilmember Walters declared a potential conflict of interest on 7i and 7j and stated that she would refrain from discussion/participation in these agenda items.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, to introduce the above-referenced ordinance and set September 22, 2003 as the date of public hearing on the ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- j. Amending Ordinance No. 4051, the Nonexclusive Cable Television License of CableAmerica Corporation.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, to introduce the above-referenced ordinance and set September 22, 2003 as the date of public hearing on the ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

8. Consider the following resolutions:

- a. Approving the final Scalloped Street Assessments for Baseline Road, City of Mesa Project #98-41 – Resolution No. 8100.

This project installed street improvements along portions of Baseline Road from Horne to 24<sup>th</sup> Street and assessed a portion of the costs to the adjacent property owners under the Scalloped Street Assessment Laws.

It was moved by Councilmember Walters, seconded by Councilmember Thom, that Resolution No. 8100 be adopted.

Carried unanimously.

- \*b. Adopting the Final Plans for the Crismon Business Park Special Improvement District No. 241. This project is proposing to install street improvements along portions of Crismon, Hampton and Cheshire Street – Resolution No. 8093.
- \*c. Adopting the Final Specifications and a Statement of Costs and Expenses for the Crismon Business Park Special Improvement District No. 241. This project is proposing to install street improvements along portions of Crismon, Hampton and Cheshire Street – Resolution No. 8094.
- \*d. Adopting a resolution of Intention for the Crismon Business Park Special Improvement District No. 241. This project is proposing to install street improvements along portions of Crismon, Hampton and Cheshire Street – Resolution No. 8095.
- \*e. Granting a Power Distribution Easement to Salt River Project at the Dobson Ranch Golf Clubhouse at 2155 South Dobson Road. This easement will provide power to the Dobson Ranch Golf Clubhouse facilities – Resolution No. 8096.
- \*f. Authorizing the City Manager to execute an Intergovernmental Agreement among the cities of Mesa, Chandler, Glendale and Scottsdale for joint legal representation in the Gila River General Stream Adjudication – Resolution No. 8097.
- \*g. Extinguishing an Arcade and Sidewalk easement at 25 West Pepper Place – Resolution No. 8098.

This easement is no longer required.

- h. Consider using eminent domain to acquire rights-of-way needed for the Power Road Widening Project between Adobe Road and McKellips Road (Project #00-43.1) – Resolution No. 8101.

The use of eminent domain is necessary to meet the project schedule.

Real Estate Services Director Doug Tessendorf provided the Council with a brief overview of this agenda item.

In response to a question from Councilmember Griswold, Mr. Tessendorf clarified that as part of the Power Road widening project, it is necessary for Salt River Project (SRP) to relocate their overhead and underground electric lines in November if street construction is to commence in January. He explained that in order to accomplish this task, the City must have legal title to the rights-of-way and/or easements prior to the start of SRP's construction, thereby making it necessary to use eminent domain at this time. Mr. Tessendorf added that none of the properties involved are total takes or residential.

Councilmember Walters declared a potential conflict of interest and stated that she would refrain from discussion/participation in this agenda item.

In response to a series of questions from Councilmember Thom, Mr. Tessendorf advised that although the City attempts to close escrow on property in a timely manner, there are instances, such as encumbrances on the land, which can delay the process; that properties in escrow are often included in the City's condemnation process to ensure that a construction project begins on schedule, and that at the immediate possession hearing, the City deposits the "appraised value" funds into an account which can be withdrawn by the property owner at that time, with the remaining funds being made available at the completion of the property value negotiations.

Councilmember Thom stated the opinion that seizing an individual's private property is appropriate only if it serves a public purpose. She noted, however, that with regard to this case, she has spoken with several of the property owners and stated that she sees absolutely no reason why the City should seize properties that are still in escrow. Councilmember Thom added that not only will the property owners be losing their frontage, but their businesses will be impacted as well due to the City's plan to install raised medians along Power Road.

Mayor Hawker commented that it is appropriate to authorize the use of eminent domain in this case and that traffic on Power Road will move in a more expeditious manner as a result of the street widening project.

Discussion ensued relative to the ongoing negotiations between the City and the six remaining property owners.

It was moved by Councilmember Griswold, seconded by Councilmember Whalen, to authorize the use of eminent domain to acquire rights-of-way needed for the Power Road Widening Project between Adobe Road and McKellips Road, and that Resolution No. 8101 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8101 adopted.

- \*i. Authorizing the sale of City property to ALRO Investments located at the southeast corner of University Drive and Alma School Road – Resolution No. 8099. This project was purchased as part of the road-widening project and is declared excess property, which is no longer required.

9. Consider the following ordinances:

- \*a. Deleted.
- \*b. Deleted.

9.1. Recommending Health Insurance Benefit Programs for 2004.

Employee Benefits Administrator Jody Topping provided the Council with a brief overview of this agenda item. She reported that it is the recommendation of staff that the City's entire medical insurance program be self-insured and self-administered, thereby eliminating the need for a fully-insured HMO (currently Pacificare). She explained that the proposed changes are designed to more efficiently manage the Employee Benefits Program and also to offer more choices to employees and retirees enrolled in the plan. Ms. Topping highlighted the four options of the new "Mesa Choice Health Plan" including Choice PPO Plan; Choice Plus Plan; Basic Choice Plan, and Copay Choice Plan. (For a more detailed account of this item, please refer to the September 8, 2003 Study Session minutes.) She added that in addition to working hard on the various plans with the Employee Benefits Advisory Committee and the Employee Benefits Task Force, staff has received valuable input and suggestions from employees as well.

Discussion ensued relative to the process whereby City of Mesa retirees living out of state can receive services from out-of-network providers.

City Attorney Debbie Spinner advised that because each member of the Council is currently participating in the City's health benefits program, per statute, all seven Councilmembers have a potential conflict of interest relative to this issue. She explained that pending acknowledgement of the conflict by its members, the Council is then permitted to ask questions, engage in discussion and ultimately vote on the matter. Ms. Spinner added that as long as the record is clear that all of the Councilmembers have such a conflict, it is unnecessary for each individual to verbally declare that fact.

It was moved by Councilmember Walters, seconded by Councilmember Jones, that the Health Insurance Benefit Programs for 2004, be approved.

Councilmember Walters and Vice Mayor Kavanaugh commended staff for their efforts and hard work to arrive at a strong and well-rounded employee benefits and health insurance program that is not only fiscally responsible, but a good choice for City employees and retirees.

Councilmember Whalen suggested that at the upcoming Council Planning Session, that the issue of the City's health benefits program be discussed as a possible revenue-producing venture for the City of Mesa.

Carried unanimously.

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

- \*a. Deleted.
- \*b. Deleted.

- \*c. Deleted.
- \*d. Deleted.
- \*e. **Z03-26** (Council District 6) North and east of the northeast corner of Crismon Road and Southern Avenue (18.9 acres±) Site Plan Modification. This case involves the development of an apartment complex. Glenn Walling, Coyote Landing Limited Partnership, owner; Denise Burton, Broadbent and Associates, Inc., applicant. **(CONTINUED FROM THE AUGUST 11, 2003 REGULAR COUNCIL MEETING). CONTINUE TO THE OCTOBER 13, 2003 REGULAR COUNCIL MEETING.**

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 requirements of the Design Review Board, including landscaping, pedestrian connections and elevations.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
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.

11. Consider the following subdivision plats:

- a. "NIELSON COMMERCIAL PLAZA UNIT 2," – (Council District 5) – 5940 North Recker Road (west side) 3 C-2 commercial lots (4.02 acres) Karl and Georgia Nielson, owners; Allen Consulting Engineers, Inc., engineer.

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

It was moved by Councilmember Griswold, seconded by Councilmember Walters, that the Nielson Commercial Plaza Unit 2 subdivision plat be approved.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- \*b. "EL PEDRIGAL," – (Council District 1) – 544 North Alma School Road (west side) 40 R-2 PAD patio homes (4.77 acres) Millennium Development Corporation, Inc., an Arizona Corporation, owner; Core Group Consultants, engineer.

12. Items from citizens present.

Deborah P. Magish, 8120 East Fox Street, a resident of the Gila Ridge subdivision, addressed the Council and expressed a series of concerns regarding the Arizona Department of Transportation's (ADOT) proposed plans for the configuration of the Brown Road interchange off of the Loop 202. She stated that residents in her neighborhood have banded together to raise their concerns regarding noise, lighting and safety issues and also a potential decline in property values. Ms. Magish added that the residents would like to meet with City staff to discuss alternatives to ADOT's proposal.

Mayor Hawker requested Assistant Development Services Manager Jeff Martin to meet with Ms. Magish to discuss her concerns.

James Fain, 1105 North Hillridge Street, concurred with the comments of the previous speaker. He indicated that noise from Brown Road in the vicinity of his neighborhood has already become obtrusive, and he requested the City's help to resolve the Brown Road interchange issue which will significantly impact the surrounding community.

Steve Shiflett, 8148 East Fountain Street, also a member of the Gila Ridge Homeowners Association, reiterated the comments of Ms. Magish and Mr. Fain.

Andrew Melendi, 11111 East Arbor Avenue, a resident of the Signal Butte area, expressed a series of questions regarding an annexation case which had been deleted from the consent agenda. Mayor Hawker requested staff to respond to Mr. Melendi's comment.

13. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:30 p.m.

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KENO HAWKER, MAYOR

ATTEST:

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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 8<sup>th</sup> day of September 2003. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK