



COUNCIL MINUTES

April 16, 2001

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on April 16, 2001, at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Jim Davidson
Bill Jaffa*
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Neal Beets
Barbara Jones

* (Councilmember Jaffa attended the Council meeting for discussion and voting on agenda item 7b only. Mayor Hawker excused Councilmember Jaffa from the remainder of the meeting.)

Invocation by Senior Pastor Cal Jernigan, Central Christian Church.

Pledge of Allegiance was led by Kyle Fox and Kenny Smith, Scout Troop # 7.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that the minutes of the February 8, 2001, March 19, 22 and 29, 2001 and April 2 and 5, 2001 City Council meetings be approved.

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSENT - Jaffa

Mayor Hawker declared the motion carried unanimously by those present.

2. 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 in these minutes with an asterisk (*) were approved with one Council action.

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

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSENT - Jaffa

Mayor Hawker declared the motion carried unanimously by those present.

3. Consider the following liquor license applications:

*a. RONALD PAUL BIGELOW, AGENT

New Restaurant License for Blue Adobe Grille, 144 N. Country Club Drive. This is an existing business. The Beer and Wine Bar License previously held by Ronald P. Bigelow, Agent, Blue Adobe Grille, will remain with the current owner.

*b. RANDY D. NATIONS, AGENT

New Restaurant License for Native New Yorker, 1837 W. Guadalupe Rd. #120. This is an existing building. The Restaurant License previously held by Richard J. Williams, Agent, Tony Roma's, closed in February 2000.

*c. TONY REN LIN, AGENT

New Restaurant License for Yen Ching Restaurant & Lounge, 126 S. Power Road. The Restaurant License previously held at this location by Chaun Chi Chi, Individual, Yen Ching Restaurant & Lounge, will revert back to the State.

*d. Special Event License application of Jean Kaminski, Business Manager, St. Bridget Catholic Church, a one-day religious event to be held on Friday, April 27, 2001 from 6:00 p.m. to 10:00 p.m., at 2213 N. Lindsay Road, St. Bridget Catholic Church.

4. Consider the following contracts:

*a. One-year renewal of the supply contract for drafting print paper for the Engineering Division.

The Purchasing Division recommends exercising the second and final one-year renewal option with the original low bidder for Sections A and D to Scott Blueprint at \$64,681.62 based on estimated requirements.

- *b. One-year Supply Contract for Hewlett Packard (HP) Desktop and Notebook Computers as requested by the Information Services Division.

The Purchasing Division recommends awarding the primary supply contract to IKON Office Solutions, and in order to assure continuity of supply, a secondary supply contract to MicroAge, Inc. for total annual purchases estimated at \$989,402.61.

- *c. Hewlett Packard (HP) Printers as requested by the Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with IKON Office Solutions for a total of \$38,056.08, including applicable sales tax.

- *d. Landscape maintenance services at the City's medians and right-of-way areas designated as Sections I, II and V as requested by the Street Maintenance Division.

The Purchasing Division recommends accepting the low bids as follows:

Sections I and V to Bowen's Horticulture Services, Inc. at \$349,784.00; and Section II to Petrinis Landscaping at \$166,067.00. The combined award is then \$515,851.00 based on estimated annual requirements.

- *e. PC Software Licenses as requested by Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contracts with ASAP Software Express, Inc. for a total of \$46,896.21 and IKON Office Solutions, for a total of \$12,286.18, including applicable use and sales tax. Total recommended award is \$59,182.39.

- *f. Two-year supply contract for sweeper brooms as requested by Fleet Support Services.

The Purchasing Division recommends accepting the low bid by Nationwide Wire & Brush Mfg., Inc. at \$45,380.84 based on estimated requirements.

- *g. Two-year supply contract for traffic paint as requested by the Street Maintenance Division.

The Purchasing Division recommends awarding the primary contract to the low bidder, TMT – Pathway, LLC, and a secondary contract to the second lowest bidder, Pervo Paint Company, for annual purchases estimated at \$142,659.12.

- *h. Nine utility bodies to be mounted on $\frac{3}{4}$ and 1 ton trucks as requested by various City departments.

The Purchasing Division recommends accepting the low bid by Commercial Van Interiors at \$26,780.40 including applicable sales tax.

- *i. Two replacement 1-1/2 ton cab chassis as requested by the Street Maintenance Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Midway Chevrolet at \$76,459.70 including applicable sales tax.

- *j. Three replacement vibratory rollers as requested by the Street Maintenance Division.

The Purchasing Division recommends accepting the low bid meeting specification by Ingersoll-Rand Equipment & Service Company at \$85,893.75 including extended warranty and applicable sales tax.

- *k. Web Content Management System as requested by the Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with IKON Office Solutions for a total of \$298,903.75, including applicable sales tax.

- *l. Two-year supply contract for automotive hydraulic hose and fittings as requested by Fleet Support Services.

The Purchasing Division recommends accepting the lowest overall bid by Kaman Industrial Technologies Corp. at \$55,000.00 based on estimated annual requirements.

- *m. One new fire ladder tender as requested by the Fire Department.

The Purchasing Division recommends accepting the proposal by Pierce Manufacturing, Inc. at \$204,368.85 including options and applicable use tax.

- *n. Centennial Conference Center Lighting and Dimming System Remodel. City of Mesa Project No. 01-01.

This project will replace the existing light fixtures and dimming control systems in the Centennial Conference Center with newer, more modern and functional equipment.

Recommend award to low bidder, Corbins Service Electric, Inc., in the amount of \$225,499.00, plus an additional \$22,549.90 (10% allowance for change orders) for a total award of \$248,048.90

5. Introduction of the following ordinances and setting May 7, 2001 as the date of public hearing on these ordinances:

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- *a. Pertaining to the Public Nuisance, Property Maintenance and Neighborhood Preservation regulations of the Mesa City Code; amending Section 8-6-2; by adding in alphabetical order definitions of "Managing Agent," "Resident Rental Property," and "Slum Property"; adding Section 8-6-18 regarding the Designation and Regulation of Slum Property.

- *b. **Z00-84** Northeast corner of Signal Butte Road and Southern Avenue. Site Plan Review (10 ± acres). This case involves the development of a commercial retail center.
- *c. **Z00-87** Property bounded on the north by Warner Road, south by Ray Road, west by RWCD canal and east by Ellsworth Road. Rezone from Maricopa County ADII, ADIII and Rural 43 to City of Mesa M-1-AF and AG-AF (1571± acres).
- *d. **Z01-13** 6052 East Baseline Road. Rezone from AG to M-1 (3± acres). This case involves development of an office/warehouse project.
- *e. **Z01-15** The 8600 - 9100 blocks of East Warner Road (south side). Rezone from AG-AF to M-1 AF (240± acres). This case involves the establishment of an industrial land use category.

6. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Transportation and the City of Mesa for the Design of a Multi-Use Path along the South Canal from McKellips Road to Val Vista Drive – Resolution No. 7642.
- *b. Authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Transportation, the Flood Control District of Maricopa County and the City of Mesa, for a Design Concept Report for proposed drainage improvements along the Santan Freeway from the East Maricopa County Floodway to Guadalupe Road – Resolution No. 7643.
- *c. Fixing May 21st, 2001, as the annual hearing date on the Mesa Town Center Improvement District – Resolution No. 7644.

This District provides enhanced municipal services for the Mesa Town Center.
- *d. Authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Transportation and the City of Mesa for improvements to the Broadway Road Railroad Crossing, just west of Center Street – Resolution No. 7645.
- *e. Extinguishing a Temporary Easement and Retention Area on Lot 2, Superstition Triangle Business Park – Resolution No. 7646.

A permanent drainage solution has been approved, making this temporary easement no longer necessary.
- *f. Vacating a portion of public roadway in the 3000 block of North Ramada – Resolution No. 7647.

This area has been replatted and this portion of North Ramada is no longer needed.

- *g. Vacating a portion of the right-of-way for North Stapley Drive, south of Lehi Road – Resolution No. 7648.

This portion of Stapley Drive will be residential, making this excess right-of-way no longer necessary.

7. Consider the following ordinances:

- *a. Relating to Civil Hearing Officers and allowing the City Manager or his designated representative to appoint one (1) or more Hearing Officers to preside over civil matters that are filed and processed as administrative cases with a City department other than the Mesa Municipal Court; amending Section 1-27-8 of the Mesa City Code - Ordinance No. 3879.

(Councilmember Jaffa arrived at the meeting at 6:15 p.m.)

- b. Amending the terms and conditions for the sale of utilities relating to the prohibition of City water and wastewater services for real property outside Mesa’s corporate limits; and providing exemptions; and providing penalties for the violation thereof - Ordinance Nos. 3880, 3881 and 3882.

Development Services Administrator Jeff Welker provided the Council with a brief chronological history of this agenda item. Mr. Welker advised that the Utility Committee unanimously approved staff’s original recommendation and report on January 9, 2001 and that staff then made a presentation to the full Council regarding this matter on February 20, 2001. Mr. Welker explained that based upon Council direction and citizen input, staff amended the original report to include fair exemptions for unsubdivided single residential properties and also reasonable transition periods for commercial developments. Mr. Welker noted that it is the intent of the ordinance to allow owners and/or developers of real property located outside Mesa’s corporate limits to connect to and receive service from City water and/or wastewater mainlines based on the property owners’ execution of a “utility service” agreement which will require payment to the City of Mesa in lieu of all applicable development impact fees.

City Attorney Neal Beets informed the Council that his office was requested to research this matter and determined in accordance with Arizona law, that cities and towns have no legal obligation to provide utility services (such as water or sewer service) outside their corporate limits. Mr. Beets commented that staff also evaluated the legal defensibility of Mesa’s development-related documents and reached the conclusion that successful enforcement of such agreements may not be feasible. Mr. Beets stated that the proposed ordinances are based on an analysis of both issues, staff input and Council direction.

Vice Mayor Davidson said that he conferred with the City Attorney’s Office and it was determined that he does not have a potential conflict of interest relative to this issue.

The following speakers in order of appearance spoke in opposition to approval of this agenda item:

Michael Sbraga
Don Ohnstad

6634 East Preston Street, Mesa
1696 East Heather Avenue, Mesa

Lyndon Lamborn	8950 East Quill, Mesa
Brian Boles	4220 North Tabor Street, Mesa
David E. Smith	8823 East Quill, Mesa
Neil Lannuier	3022 North 80 th Street, Mesa
Russell Bowers	8831 East Quill, Mesa

Speakers spoke in opposition to staff's recommendations for the following reasons:

- Landowners purchased property outside Mesa's corporate limits based on the expectation that City utility services would be available.
- Permits for utility services have been delayed.
- Impact fees may not be utilized for their intended purposes.
- Landowners should not be required to be on a timeline to construct his/her home.
- Impact fees should be utilized to improve the surrounding area.
- Landowners were not given prior notification by City staff relative to modifications to the ordinances.
- County landowners should not be required to pay for annexation.
- Landowners with existing water services should not be required to pay for future street improvements.
- Impact fees are "backup" fees.
- Landowners should not be asked to pay for services which they may never enjoy.
- It is unlikely that specific unincorporated areas will ever be annexed due to the strong opposition of surrounding landowners.
- Adoption of the ordinances condemns the Desert Uplands to hodgepodge development of scattered City and County islands.
- Proposed development fees will be cost prohibitive.
- Impact fees are unreasonable and punitive.
- Residential landowners should be exempted from the imposition of impact fees.
- County residents do not want City infrastructure.

David Udall, 30 West 1st Street, an attorney representing County landowners Larry and Luann Kaiser, spoke in opposition to this agenda item. Mr. Udall commented that in accordance with the proposed ordinances, residential property owners would be required to pay excessive and punitive fees and stated the opinion that it would be more economically feasible for the property owners to simply drill wells and install septic tanks.

Carol Owens, P.O. Box 1017, Apache Junction, spoke in support of this agenda item and expressed the opinion that it is appropriate to assess fees to landowners located outside Mesa's corporate limits for City utility services.

Assistant to the City Manager Bryan Raines advised the Council that impact fees are only available to offset capital improvement costs and cannot be utilized for operational purposes.

In response to a question from Councilmember Pomeroy regarding the fairness of the ordinances, Mr. Raines clarified that although County landowners currently have no interest in being annexed into Mesa, there may be economic changes or service capabilities in the future which will make it advantageous for them to become a part of the City. Mr. Welker added that

the City has implemented financing arrangements to assist those property owners who are unable to pay their in lieu fees for road improvements.

Discussion ensued relative to the fact that it is staff's goal to maintain consistency regarding the application of development rules and regulations in and outside Mesa's corporate limits; the fact that currently, if a City landowner has frontage on more than one public street, he is required to improve the frontages or to pay for those improvements incurred by the City through capital improvement projects at a future date; the fact that in the County, road alignments exist which are not viable, according to Mesa standards, and the City Transportation Director evaluates such alignments to ensure that if and when annexation occurs, such alignments will be improved and maintained by the City, and the fact that each property will be considered on a case-by-case basis.

Mr. Welker responded to questions from the Councilmembers regarding multiple frontages, development impact fee refunds, development costs for urban/suburban roads and the establishment of accounts for the collection of impact fees.

Vice Mayor Davidson expressed the opinion that the Desert Uplands is a unique area of the Valley and should be preserved and protected.

In response to a question from Councilmember Walters, Mr. Welker clarified that staff elected to differentiate commercial residential subdivisions from unsubdivided single residential land in an effort to be fair to those landowners who had the expectation that City utility services would become available at a future date. Mr. Welker added that if commercial developments do not adhere to specific deadlines, services will not be made available for their use.

Councilmember Jaffa expressed concerns regarding the significant growth and development that is occurring outside of Mesa's corporate limits but within the City's planning area, the safety of County roads for current and future homeowners, and the inequity of requiring Mesa residents to pay for City services that are being requested by County residents.

In response to questions from Councilmember Jaffa, Planning Director Frank Mizner advised that in an effort to encourage greater sensitivity for the desert environment, staff is currently in the process of amending the Desert Uplands Development Standards. Mr. Welker added that if different standards are implemented, staff will adjust the fee structure accordingly.

Mayor Hawker voiced support for this agenda item and stated the opinion that the proposed modifications to the ordinances appear to be the most viable alternatives to enable Mesa to fund and accommodate demands for the City's future capital costs.

It was moved by Councilmember Whalen, seconded by Councilmember Kavanaugh, that Ordinance Nos. 3880, 3881 and 3882 be adopted.

Councilmember Whalen, Chairman of the Utility Committee, informed the audience that one of the provisions contained in the ordinances is an appeal process which provides landowners an opportunity to appeal staff's decision to the Utility Committee. Councilmember Whalen stated the opinion that if the common good of the Desert Uplands is better served, property values will increase, and the availability of City water service for future residents will further enhance the area.

Councilmember Pomeroy stated that he will not support the motion and agreed with concerns voiced by the speakers regarding the fact that future annexation may or may not occur. Councilmember Pomeroy also questioned the fairness of the proposal based on the possibility that County landowners may never benefit from City services.

Councilmember Jaffa voiced support for this agenda item.

Mayor Hawker thanked Councilmember Jaffa for his participation during the discussion of agenda item 7b and said that he will be excused from the remainder of the Council meeting following his vote.

Councilmember Walters advised that although she is sympathetic to the arguments expressed on both sides of the issue, County properties will be annexed into Mesa in the future and the City will be required to expend significant funds to bring County roads up to City standards.

Vice Mayor Davidson stated that although he concurs with the comments of Councilmember Pomeroy, it is imperative that Mesa preserve the Desert Uplands area through the assessment of impact fees to County residents requesting City utility services.

Councilmember Kavanaugh spoke in support of the motion and expressed the opinion that it is the obligation of the Council to determine what is fair and appropriate for Mesa's residents. Councilmember Kavanaugh also commended staff for their efforts with regard to the proposed revisions, proposal modifications and the proposed creation of an appeal process.

Councilmember Pomeroy reiterated his concerns regarding the fairness of the proposal.

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Jaffa-Kavanaugh-Walters-Whalen
NAYS - Pomeroy

Mayor Hawker declared the motion carried by majority vote and Ordinance Nos. 3880, 3881 and 3882 adopted.

Mayor Hawker thanked the speakers for their input and the cordial and professional manner in which they presented their views.

(Councilmember Jaffa left the meeting at 7:25 p.m.)

8. Consider the following items from the Police Committee:

- *a. Recommend proceeding with the design of improvements to the Dobson Ranch Police/Fire Substation.
- *b. Recommend that the Police Public Information Office charge the media for police reports consistent with the policy and fee schedule utilized by the Records Department. **THIS ITEM WAS PLACED ON THE CONSENT AGENDA FOR CONTINUANCE TO THE MAY 7, 2001 COUNCIL MEETING.**

- c. Recommend that conducting community sex offender notifications by mailing flyers to homes and businesses in the appropriate neighborhood be approved as a one-year pilot project with a subsequent report to the Police Committee regarding the success or failure of the program.

Councilmember Kavanaugh, Chairman of the Police Committee, informed the Council that Arizona law requires the Mesa Police Department to conduct community notifications when registered sex offenders change their residences within the City. Councilmember Kavanaugh explained that the Police Department's Sex Offender Notification Enforcement and Tracking Team (SONET) currently conducts the neighborhood notifications on a door-to-door basis, but said that discretion is given to the community regarding the implementation of the notification process. Councilmember Kavanaugh advised that it is the recommendation of the Police Committee (2-1 vote) that a one-year pilot program be implemented by the Police Department and that future community notifications be conducted by mailing fliers to homes, schools and businesses in the appropriate neighborhoods. Councilmember Kavanaugh expressed the opinion that this proposal represents an effective use of City manpower and is a more efficient means of reaching the intended audience. Councilmember Kavanaugh commented that it is also the recommendation of the Police Committee to assess fiscal and manpower impacts, as well as the Department's ability to disseminate the information to the community. Councilmember Kavanaugh added that the Department will continue to notify businesses, schools and the media and will also continue to conduct community Block Watch meetings.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that the recommendations of the Police Committee be approved.

Police Commander Dave Zielonka addressed the Council regarding this agenda item and advised that the mission of the SONET unit, comprised of five detectives and one sergeant, is to conduct community notifications of the approximately 1,000 sex offenders who have moved/relocated to Mesa and also to provide those individuals with sex offender management. Commander Zielonka explained that since its inception in 1996, the SONET unit has typically conducted the community notifications on Thursday evenings, at a cost between \$2,000 and \$4,000 each, and enlists the services of a minimum of 40 officers and volunteers to accomplish the door-to-door effort.

Police Lieutenant Doug Kline referred to graphics displayed in the Council Chambers and provided an overview of the ongoing success and effectiveness of the SONET unit and the sex offender identification and verification process.

Police Sergeant Steve Stahl presented the Council with a sample mailer and briefly described its features. Sergeant Stahl noted that the mailer, available in English and Spanish, will continue to inform the same number of households as a typical door-to-door notification and each mailer will be addressed to an adult.

Vice Mayor Davidson thanked staff for their input and expressed the opinion that the SONET unit should continue with the current policy of door-to-door notification. Vice Mayor Davidson emphasized that this method of notification would continue to provide Mesa's residents with the opportunity to observe Mesa police officers representing the community and informing citizens of possible hazards that may exist within its neighborhoods. Vice Mayor Davidson added that although he appreciates Councilmember Pomeroy's suggestion of conducting a one-year pilot

program, the sex offender notification program is too important to jeopardize and urged the Council not to support the motion.

Councilmember Walters complimented staff on their presentation and concurred that the mailer would be a more efficient and effective means of community notification. Councilmember Walters also commented on the fact that the mailer will not result in the elimination of the community Block Watch meetings.

Sergeant Stahl explained that State law mandates that subsequent to release from incarceration, all convicted sex offenders must be evaluated and scored on a State screening tool to quantify their classification level. Sergeant Stahl discussed the evaluation procedure for Level I, II and III sex offenders.

Councilmember Pomeroy stated support for this agenda item.

Vice Mayor Davidson reiterated his request that the Council give this proposal and its potential impacts careful consideration prior to granting approval.

In response to a question from Councilmember Whalen, Commander Zielonka clarified that staff intends to solicit feedback from the community Block Watch captains as a means by which to evaluate the program. Commander Zielonka added that staff may also conduct a limited survey.

Mayor Hawker spoke in support of this agenda item and noted that the utilization of mailers is an effective use of City resources. Mayor Hawker requested that staff provide the Council with the results of all evaluations or surveys that are conducted.

Upon tabulation of votes, it showed:

AYES - Hawker-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - Davidson
ABSENT - Jaffa

Mayor Hawker declared that the motion carried by majority vote of those present.

8.1. Consider the appointment of an Interim Acting Neighborhood Services Manager.

City Manager Mike Hutchinson explained that as a result of a vacancy created in the Neighborhood Services Division due to the appointment of Wayne Balmer as Project Manager for the Williams Gateway Regional Economic Activity Area, he is pleased to recommend the appointment of Assistant to the City Manager Bryan Raines as the Interim Acting Neighborhood Services Manager.

It was moved by Councilmember Whalen, seconded by Councilmember Walters, that Bryan Raines be appointed Interim Acting Neighborhood Services Manager.

Councilmember Kavanaugh commented that he has had the privilege of working with Mr. Raines for the past five years and said that he has the highest regard for Mr. Raines' abilities. Councilmember Kavanaugh stated the opinion that as Mesa transitions into the district system, it is imperative that the Neighborhood Services Division continue its collaboration with the

Council and other City departments and said that Mr. Raines' diverse background will be a valuable asset in accomplishing this goal.

Mayor Hawker concurred with Councilmember Kavanaugh's comments.

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSENT - Jaffa

Mayor Hawker declared the motion carried unanimously by those present.

Mr. Raines thanked the Council, Mr. Hutchinson and Deputy City Manager Paul Wenbert for their support and expressed his eagerness to begin serving in his new position.

8.2. Consider the following recommendation from the General Development and Transportation Committees:

- *a. Adopting a resolution approving and directing the Joint Master Planning Committee to evaluate options for implementing transit oriented development standards in conjunction with the planned Central Phoenix/East Valley Light Rail Transit-Project – Resolution No. 7649.

9. Consider the following case from the Planning and Zoning Board and possible adoption of the corresponding Ordinance:

- a. **Z00-65** North of the northwest corner of Sossaman Road and Germann Road. Site Plan Review (20± acres). This case involves the development of a concrete batch plant. Olympia Investments, owner, represented by: Francis J. Slavin; AGRA Infrastructure, applicant, represented by: Greg Davis – Ordinance No. 3883. **CONTINUED FROM THE JANUARY 8, 2001, MARCH 5, 2001, AND APRIL 2, 2001 MEETINGS.**

P&Z Recommendation: Denial. (Vote 6-0)

Jim DaBroi, 3257 North Boulder Canyon, Mesa, addressed the Council regarding this zoning case and noted that there has been overwhelming opposition expressed by City staff, the Planning and Zoning Board, Williams Gateway Airport Authority and Arizona State University-East regarding the appropriateness of developing a concrete batch plant at this site. Mr. DaBroi stated the opinion that the batch plant would hinder future economic development at this location and urged the Council to deny the applicant's request.

It was moved by Councilmember Whalen, seconded by Councilmember Pomeroy, that Zoning Case Z00-65 be approved and Ordinance No. 3883 be adopted.

Councilmember Kavanaugh stated that although he does not support the motion, he would like to commend City staff, the applicant and the surrounding property owners for their efforts to arrive at a satisfactory resolution regarding the development of this site. Councilmember

Kavanaugh stated the opinion that the proposed site is inappropriate and inconsistent with the City's General Plan. Councilmember Kavanaugh commented that Mesa's landscape is littered with the results of past erroneous zoning decisions and expressed his hope that the applicant will be a good corporate citizen and work in conjunction with the residents of Mesa and the Town of Queen Creek.

Councilmember Walters concurred with the comments of Councilmember Kavanaugh relative to past zoning decisions, but pointed out that the cement batch plant is a permitted use under the current M-2 zoning designation.

In response to a question from Councilmember Walters, Planning Director Frank Mizner clarified that the City's M-2 zoning could be modified to eliminate the category of cement batch plants in future zoning cases.

Councilmember Walters stated that she would reluctantly support the motion and expressed hope that the development of the cement batch plant will not hinder future development that was previously envisioned for this area.

In response to a question from Councilmember Walters regarding an April 16, 2001 letter from Wendy Feldman-Kerr, the Mayor of Queen Creek, Mr. Mizner advised that the "stipulations" referred to in the letter are the conditions of the ordinance. Mr. Mizner added that the Town of Queen Creek supports the conceptual land use planning efforts and will be notified when the zoning case is scheduled for design review.

Vice Mayor Davidson thanked Mr. DeBroi for his input and stated the opinion that although he does not support the development of a cement batch plant at this location, based on the City's current M-2 zoning designation, the Council is left with no alternative other than to approve the request.

Councilmember Pomeroy concurred with the comments of Councilmember Walters relative to the City's failure to prohibit cement batch plants in M-2 zoning in the past.

In response to a question from Councilmember Pomeroy relative to the current staff recommendation, Mr. Mizner clarified that although the Planning and Zoning staff, with the concurrence of the Planning and Zoning Board, has consistently opposed this case, they are also cognizant of the legal issues with regard to the M-2 zoning designation. Mr. Mizner emphasized that the proposed ordinance will result in an attractive, well designed, well screened and reasonably compatible cement batch plant.

Councilmember Pomeroy advised that he will support the motion and commented on the fact that several continuances were granted during this process to allow sufficient time to ensure that the cement batch plant will be as compatible to the surrounding area as possible.

Councilmember Whalen stated that he will vote in favor of this agenda item and added the opinion that the case will be a closely watched development within the community. Councilmember Whalen noted that the modified ordinance will reduce the number of cement truck trips on a daily basis that will travel through the City. Councilmember Whalen thanked all the parties involved for their efforts in this regard.

Mayor Hawker spoke in support of the motion and encouraged staff to pursue adequate screening to obscure the plant's appearance from the road as much as possible. Mayor Hawker also suggested that the issue of big box retail developments be further addressed. Mayor Hawker commented on the legal ramifications associated with denying the request and said that his decision to support the case is based on the opinion that the proposal represents the best option at this location and will mitigate the effects of the traffic and buffer the visual impacts.

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Pomeroy-Walters-Whalen
NAYS - Kavanaugh
ABSENT - Jaffa

Mayor Hawker declared the motion carried by majority vote of those present and Ordinance No. 3883 adopted.

10. Consider the following subdivision plats:

- *a. "MOUNTAIN HEIGHTS" (Council District 6) The 4000 - 4100 blocks of South Mountain Road (east side) 190 R1-7 PAD single residence lots (79.75 acres) Metropolitan Land Company, developer; Infinity Engineering Services, Ltd., engineer.
- *b. "SIGNAL BUTTE MARKETPLACE II" (Council District 5) The 10550-10750 blocks of East Main Street (south side) 7 C-2 commercial lots (17.83 acres) Eastbourne Investments, Ltd., developer; AMEC Infrastructure, Inc., engineer.
- *c. "LINDSAY CROSSING" (Council District 6) The 600-700 blocks of South Lindsay Road (west side) 107 R1-6 PAD patio home lots (24.34 acres) Maracay Lindsay Crossing, L.L.C., developer; Infinity Engineering Services Ltd., engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:15 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 16th day of April 2001. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2001.

BARBARA JONES, CITY CLERK

pag