



COUNCIL MINUTES

August 27, 2007

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on August 27, 2007 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

STAFF PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

(Items on the agenda were discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

Invocation by Pastor Tim Gustafson, Life Changes Community Church.

Pledge of Allegiance was led by Bryant Crosby, Scout Troop # 351.

Mayor's Welcome.

1. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the Consent Agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

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

Carried unanimously.

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

Minutes from the May 21 and 31 and August 13 and 16, 2007 Council meetings.

2.1. Discuss and take action on the appointment of Linda Crocker as City Clerk as recommended by the City Manager.

City Manager Christopher Brady recognized outgoing City Clerk Barbara Jones. He stated that Ms. Jones has been "a gift" to the City and a dedicated public servant during her tenure with the City of Mesa.

Mr. Brady noted that because of Ms. Jones' positive influence on her staff, he is pleased to recommend the appointment of Deputy City Clerk Linda Crocker to the position of City Clerk. He commented that Ms. Crocker brings extensive knowledge and enthusiasm to the position and expressed confidence that she would make significant contributions throughout the community.

Marilynn Wennerstrom, 1112 North Center, stated that the City Clerk's Office is and will continue to be "a class act" that Mesa residents can be proud of. She acknowledged the professionalism of Ms. Jones and stated that she is confident that Ms. Crocker would continue to carry on her legacy. Ms. Wennerstrom further commented that through the actions of Mesa's active citizenry, the City Clerk's Office has become State experts in initiative and referendum law and procedures that can be attested to by other city and town clerks who seek advice in such matters. She added that the staff's wide range of expertise is unsurpassed and well deserving of this tribute.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that the appointment of Linda Crocker as City Clerk be approved.

Vice Mayor Walters stated that it is an honor for her to make the motion to approve the appointment of Linda Crocker as City Clerk. She recounted Ms. Jones and City Attorney Debbie Spinner's efforts and hard work two years ago during the recruitment process for a new City Manager and thanked them for assisting the Council in that regard. Vice Mayor Walters added that she is thrilled with Ms. Crocker's appointment and is confident that she will excel in her new role.

Mayor Hawker expressed appreciation to Ms. Jones for her service to the City of Mesa and said that she has been an outstanding representative for the community. He also wished her well in any future endeavors she may pursue.

Ms. Jones thanked Mayor Hawker for his comments and stated that it has been a pleasure for her to work for the Council and to serve the citizens of Mesa.

Mayor Hawker called for the vote.

Carried unanimously.

Mayor Hawker congratulated Ms. Crocker and invited her to stand to be recognized.

3. Take action on the following liquor license applications:

*3a. Southeast Valley Regional Association of Realtors.

This is a one-day fraternal event to be held on Friday, September 28, 2007 from 5:00 p.m. to 10:00 p.m. at 1363 S. Vineyard **(District 3)**

*3b. Famous Dave's Legendary Pit Bar-B-Que

New Restaurant License for Famous Dave's Legendary Pit Bar-B-Que, 1011 N. Dobson Road, Famous Charlie's LLC – Applicant, Randy D. Nations – Agent. This is new construction with no previous liquor license at this location. **(District 1)**

4. Take action on the following contracts:

*4a. Renewal of the Supply Contract for Dust and Erosion Control Services as requested by the Development Services Department, Environmental Programs Division.

The Procurement Services Department recommends authorizing renewal to use the Maricopa County contract with EarthCare Consultants, LLC at \$144,081.63, based on estimated requirements.

*4b. Two-Year Renewal of the Supply Contract for Helicopter Engine Parts & Repair for the Police Department.

The Procurement Services Department recommends exercising a two-year renewal option with Aero Maritime America, Inc. at \$390,000.00 annually, based on estimated usage.

*4c. Two Replacement Fire Pumper Trucks for the Fire Department. (Fire Bond Funded) **(Single Proposal)**

The Procurement Services Department recommends authorizing purchase from Pierce Manufacturing, Inc. at \$1,106,601.41 including applicable use tax.

*4d. Professional Sound System for the Mesa Arts Center.

The Procurement Services Department recommends authorizing purchase from AVDB Group, LC at \$228,577.83, including applicable use tax.

*4e. Ratification of Emergency Purchase of X-Ray Screening Equipment for the Mesa Municipal Court (Arizona Supreme Court Grant Funded).

The Procurement Services Department recommends ratification of purchase from the Maricopa County contract with Smith's Detection at \$57,393.84, including applicable use tax and freight.

4f. Falcon Field Airport Runway Incursion Prevention Perimeter Access Control (Phase 2), City of Mesa Project No. 02-397-004.

This project will install the second phase of interior fencing along Falcon Drive, Roadrunner Drive, Eagle Drive and Higley Road to reduce the possibility of runway incursions at Falcon Field.

Recommend award to Steelock Fence Corporation, dba Steelock General Fence Contractors, in the amount of \$388,270.00 plus an additional \$38,827.00 (10% allowance for change orders) for a total award of \$427,097.00. Funding is available from a Federal (FAA) Grant (\$343,420.00), a State grant (\$10,677.00) and a UASI grant (\$73,000.00) **(Related to item 7h)**.

(Note: Council action on 7h took place prior to this item. Councilmember Griswold declared a potential conflict of interest regarding 4f and 7h at that time.)

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

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Rawles-Somers-Walters-Whalen
NAYS - None
ABSTAIN - Griswold

Mayor Hawker declared the motion carried unanimously by those voting.

- *4g. Desert Wells Pump Station No. 1 Expansion at 6102 East McDowell Road, City of Mesa Project No. 03-072-001.

This project will expand water pumping capacity and system reliability in the northeast portion of the Desert Wells Pressure Zone and will clean and repaint the interior of Falcon Field Reservoir No. 1.

Recommend award to Archer Western Contractors, in the amount of \$1,156,148.00 plus an additional \$115,614.80 (10% allowance for change orders) for a total award of \$1,271,762.80. Funding is available from the approved FY 07/08 Water Bond Program.

- 4h. 2007/2008 Surface Seal Project, City of Mesa Project No. 07-901-001 **(Sole Bidder)**.

This project will surface seal approximately 752,065 square yards of pavement throughout the City.

Recommend award to Cactus Asphalt, in the amount of \$386,016.25 plus an additional \$38,601.63 (10% allowance for change orders) for a total award of \$424,617.88. Funding is available from the Transportation Operations Budget.

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

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Somers-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

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

*4i. 2007/2008 Crack Seal Project, City of Mesa Project No. 07-902-001.

This project will crack seal approximately 4,229,300 square yards of pavement throughout the City.

Recommend award to Cholla Pavement Maintenance, Inc., in the amount of \$1,045,046.00 plus an additional \$104,504.60 (10% allowance for change orders) for a total award of \$1,149,550.60. Funding is available from the Transportation Operations Budget.

5. Introduction of the following ordinances and setting September 4, 2007 as the date of the public hearing on these ordinances:

*5a. **A07-16 (District 5)** Annexing land located on Crismon Road north of Brown Road (0.15 ± ac). Initiated by the property owner, Warren Petersen.

*5b. **Z07-84 (District 5)** 2759 North Val Vista Drive. Located at the southeast corner of Val Vista Drive and McDowell Road (2.62 ± ac.). Rezone from O-S PAD to O-S. Jennifer Hassan, owner; City of Mesa, applicant. (**Notified property owners and homeowners' associations.**)

PHO Recommendation: Approval with Conditions.

*5c. Amending the City of Mesa Zoning Code to provide the remaining seven (7) of forty-four (44) Level 1 Historic Structures identified in a 1984 Historical Survey of the City of Mesa the opportunity to apply for a Special Use Permit to allow office use.

6. Introduction of the following ordinance and setting September 17, 2007 as the date of the public hearing on this ordinance:

*6a. **Z07-66 (District 5)** North side of McKellips from Hawes to the alignment of 92nd Street and the south side of McKellips from the alignment of 80th Street to the alignment of 92nd Street. Modification of the Stone Bridge Mountain DMP. Site Plan Review and rezone of parcel 23 from R1-35 DMP (conceptual R1-9) to R1-15 PAD. Pinnacle Ridge Holdings,

LLC, Jeff Blandford, owner; Paul Dugas, applicant. (***Held neighborhood meetings and notified property owners.***)

P&Z Recommendation: Approval with conditions. (Vote: 4-0 with Boardmembers Salas and Carter absent).

7. Take action on the following resolutions:

- *7a. Vacating an alley between the 1900 blocks of East Delta Avenue and East Diamond Avenue. (**District 4**) – Resolution No. 9061.

This alley is being vacated at the request of the adjacent property owners to better secure the area. A Public Utility and Facilities Easement will be retained for access by the utility companies.

- *7b. Vacating Right-of-Way on North Stapley Drive at 1220 East Nance Street and 2645 North Stapley Drive. (**District 1**) – Resolution No. 9062.

This 10-foot wide section of right-of-way is no longer needed.

- *7c. Extinguishing a Water Line Easement at 7530 East Hampton Avenue. (**District 6**) – Resolution No. 9063.

The easement is not required and is in the way of a new development project.

- *7d. Granting a Power Distribution Easement to Salt River Project on City-owned property at 6935 East Decatur Street. (**District 5**) – Resolution No. 9064.

This easement is necessary to reinstall new power lines to Fremont Junior High School across City-owned property.

- *7e. Extinguishing a portion of a Public Utility Easement at 2842 East Emelita Avenue. (**District 2**) – Resolution No. 9065.

This easement is being extinguished to allow the construction of a swimming pool.

- *7f. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Pros Investments, LLC and the City of Mesa for the reimbursement of \$59,736.20 for regional street lighting and traffic signal improvements that are being required by Mesa in conjunction with a proposed commercial subdivision known as Parkwood Ranch Marketplace located at 1137 South Crismon Road. Mesa's estimated share will be funded from existing Street HURF Bond proceeds. (**District 6**) – Resolution No. 9066.

- *7g. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between Maricopa County Department of Transportation (MCDOT) and the City of Mesa for maintenance and operation of Elliott Road just west of Signal Butte Road – Resolution No. 9067.

This agreement will allow Mesa to reduce congestion and delay at the intersection by adding a dedicated eastbound left-turn lane on Elliott Road at Signal Butte Road. The improvements can be made less expensively and in a more timely manner than if MCDOT retained responsibility for maintenance and operations.

- 7h. Approving and authorizing the City Manager to execute an Airport Improvement Program (AIP) Grant Agreement between the Federal Aviation Administration (FAA) and the City of Mesa for installation of perimeter fencing at Falcon Field Airport – Resolution No. 9071. **(Related to item 4f)**

Councilmember Griswold declared a potential conflict of interest on agenda items 7h and 4f and said he would refrain from discussion/consideration of these items.

It was moved by Councilmember Somers, seconded by Councilmember Jones, that Resolution No. 9071 be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Rawles-Somers-Walters-Whalen
NAYS - None
ABSTAIN - Griswold

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 9071 adopted.

- *7i. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and City of Scottsdale for cooperative law enforcement training operations – Resolution No. 9068.
- *7j. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and City of Maricopa for cooperative law enforcement training operations – Resolution No. 9069.
- *7k. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Salt River Pima Maricopa Indian Community for cooperative law enforcement training operations – Resolution No. 9070.

8. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (*), a blue card must be given to the Clerk before Council votes on the consent agenda.

- *8a. **A06-28 (District 6)** Annexing land located at the northwest corner of Broadway Road and 82nd Way (0.20± ac). Initiated by the property owner, James Vanderpool – Ordinance No. 4743.
- *8b. **Z07-43 (District 6)** 8659 East Pecos Road. Located south and east of Hawes Road and Pecos Road (10.59± ac.). Rezone from AG to O-S-PAD for the southern 110' of the site, and M-1-PAD for the remainder of the site, and Site Plan Review. This request

will allow for the development of an office/warehouse development. Jeff Phillippe, Pecos 77, LLC, owner; Reese Anderson, Pew & Lake, PLC, applicant. ***(Held neighborhood meetings, notified property owners, homeowners' associations and registered neighborhoods.)*** **LEGAL PROTEST FILED – ¾ VOTE REQUIRED. CONTINUED TO THE SEPTEMBER 4, 2007 REGULAR COUNCIL MEETING.**

P&Z Recommendation: Approval with conditions. (Vote: 4-2-1 with Boardmembers Esparza and Langkilde nay; Carter abstaining due to a potential conflict of interest).

- *8c. **Z07-56 (District 5)** The 2800 to 3200 blocks of North Sossaman Road (west side). Located north of McDowell Road on the west side of Sossaman Road (1.21± ac). Rezone from Maricopa County R1-35 to City of Mesa R1-35-PAD. For the establishment of City of Mesa zoning on recently annexed property. Las Sendas Community Association, represented by Michael Moore, owner; City of Mesa, applicant – Ordinance No. 4744.

PHO Recommendation: Approval with Conditions.

- *8d. **Z07-71 (District 6)** The 200-300 blocks of South Hawes Road (east side). Located at the northeast corner of Broadway and Hawes Roads (8.69± acres). Rezone from Maricopa County R-5 to City of Mesa R-4. For the establishment of City of Mesa zoning on recently annexed property. Bonita Vista Mobile Home Park LP, represented by Jack Evans, owner; City of Mesa, applicant – Ordinance No. 4745.

PHO Recommendation: Approval with Conditions.

- *8e. **Z07-72 (District 5)** 7611 East Palm Lane. Located east of Sossaman Road north of McDowell Road (1.21± acres). Rezone from Maricopa County R1-35 to City of Mesa R1-35. For the establishment of City of Mesa zoning on recently annexed property. Brian Bresson and Julie Preder, owners; City of Mesa, applicant – Ordinance No. 4746.

PHO Recommendation: Approval with Conditions.

- *8f. **Z07-73 (District 6)** 221 South Power Road. Located south of Main Street on the east side of Power Road (1.46± ac.) Site Plan Review. This request will allow the development of a medical office building. Chatham and Chatham LLC, Joseph Chatham, owner; Keith Paul, Looker & Cappello Architects, Inc., applicant – Ordinance No. 4747. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

PHO Recommendation: Approval with Conditions.

- *8g. **Z07-75 (District 5)** 3820 North Hawes Road, APN 219-18-008A. Located north of Thomas and Hawes Roads (west side) (1.5 ± ac.) Site Plan Review. To accommodate the future development of a single residence. JCA Holdings LLC, Chris Arnold, owner; Reese Anderson, Pew and Lake, PLC, applicant – Ordinance No. 4748. ***(Notified property owners and homeowners' associations.)***

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

- *8h. **Z07-76 (District 6)** 3225 South Power Road. Located south of Guadalupe Road on the east side of Power Road (14.72± ac.). Rezone from R1-43 to M-1 PAD and Site Plan Review. This request will allow the development of an industrial/office complex. Frank Warren, Newport Builders, owner; Thomas D. Bohlen, Oracle Architecture & Planning, applicant – Ordinance No. 4749. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

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

- *8i. **Z07-77 (District 5)** 1460 North Alta Mesa Drive. Located south of McKellips Road and west of Recker Road (7.04 ± ac.). Rezone from R-2 PAD DMP to R1-6 PAD DMP and Site Plan Review. This request will allow the development of a townhouse community. John Perkinson, Perkinson Investment Corp., owner; Dorothy Shupe, Dreamcatchers Planning & Design, LLC., applicant – Ordinance No. 4750. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

P&Z Recommendation: Approval with conditions. (Vote: 6-0-1 with Boardmember Carter abstaining due to a potential conflict of interest.)

- *8j. **Z07-80 (District 5)** The 8000-8100 blocks of East Brown Road. Located south and east of Brown Road and 80th Street (4.52± ac.). Rezone from R1-9 (conceptual O-S) to O-S, and Site Plan Review. To accommodate the development of an assisted living facility and an office building. Gary Crosby, Crosby Enterprises, Inc., owner/applicant – Ordinance No. 4751. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

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

- *8k. **Z07-81 (District 5)** 1202 North Power Road (west side). Located on the northwest corner of Brown Road and Power Road (1.9± ac.). Rezone from R1-9 to C-1, and Site Plan Review. This request will allow the development of a convenience store with fuel pumps. John Ortle & David Sleater, owners; David Cisiewski, Law Office of David Cisiewski, PLLC, applicant – Ordinance No. 4752. ***(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)***

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

- *8l. **Z07-82 (District 2)** 2434 East Southern Avenue. Located on the north side of Southern Avenue west of Lindsay Road (1.34+/- acres). Rezone from R1-43 to O-S. This request will allow for a commercial childcare facility. John and Linda Skidmore, owners; Thomas Bottomley – Dreamcatchers Planning & Design, applicant – Ordinance No. 4753. ***(Notified property owners, homeowners' associations and registered neighborhoods.)***

PHO Recommendation: Approval with conditions.

- 8m. **Z07-83 (District 2)** 4225 East University Drive. Located on the southwest corner of University Drive and Greenfield Road (24.9+/- acres). Rezone from R-4 to R-4 PAD and Site Plan Review. This request will allow for the conversion of apartments to townhomes for sale. D. Gregory Hales, Carlsbad Development Inc., LLC, owner; Mark Tomecak, applicant. (**Notified property owners**).

PHO Recommendation: Approval with conditions.

Mayor Hawker stated that at the Study Session immediately preceding this meeting, the Council briefly discussed the possibility of the applicant including additional stipulations as part of the zoning ordinance.

City Attorney Debbie Spinner informed the Council that in speaking with the applicant, he indicated a willingness to discuss the inclusion of additional stipulations and also agreed to make certain verbal agreements in this regard. She noted that the applicant further requested input concerning the timeframe within which the case could be brought back for further Council consideration.

Mark Tomecak, the applicant, introduced Ethan Fry, an attorney retained by the developer to address a series of legal issues associated with the case.

Mayor Hawker noted that when this case was presented to the Planning & Zoning (P&Z) Board, a discussion occurred relative to the difference between townhomes and condominiums and whether stipulations could be added to the zoning ordinance. He commented that several Councilmembers, including himself, are seeking the inclusion of additional stipulations in order to ensure the sustainability of the project if the apartments are converted to townhomes.

Mr. Tomecak clarified that in working with City staff, there was always an understanding that the developer would upgrade the entire property. He explained that he and Mr. Fry worked on another condo conversion project in Mesa and stated that although the City did not stipulate any changes, the developer upgraded the entire mechanical unit, improved the landscaping, repainted, and installed new asphalt. Mr. Tomecak commented that such efforts are necessary in order for the project to be saleable and sustainable.

Mayor Hawker referred to the August 2, 2007 Planning Hearing Officer Hearing minutes which reflect the following: "Mr. Tomecak responded that they plan to replace the wood siding, paint the entire site, repair the irrigation system and sidewalks, replace landscaping where needed, redo the asphalt and pools, and make the site presentable to the neighborhood."

In response to a question from Mayor Hawker, Ms. Spinner explained that if the Council's requests for additional stipulations are the same as those outlined in the Planning Hearing Officer's minutes, staff would work with the applicant to draft a revised zoning ordinance that includes those items. She stated that if possible, the applicant would prefer that the case be brought back to the Council for reintroduction at the September 4, 2007 Regular Council meeting and considered for adoption at the September 17, 2007 Regular Council meeting. Ms. Spinner added that if the Councilmembers wish to include additional stipulations to the zoning ordinance, that they enumerate them at this time.

Mayor Hawker expressed support for the inclusion of CC&Rs and stressed the importance of drafting a type of management agreement to ensure, for example, that fees are assessed and the common areas maintained.

Vice Mayor Walters concurred with Mayor Hawker's comments regarding the sustainability of the project. She stated that because the apartment complex has more than 400 units, it is imperative that the property is upgraded in an appropriate manner to ensure the successful conversion to townhomes. Vice Mayor Walters suggested that stipulations be added to the zoning ordinance to address improvements to the roofing where needed, possible upgrades to some of the carports, and improvements to the landscaping where needed.

Councilmember Somers expressed concern regarding the conversion of apartments to condominiums, particularly with regard to public safety and Code enforcement matters. He requested the inclusion of the following stipulations: an engineering report for various systems (i.e., plumbing, air conditioning, heat, electrical) to ensure that when an individual purchases one of the units, the systems are functioning properly; and that Fire and Building Safety staff inspect the property to assess any major needs, such as units not equipped with smoke detectors.

Mayor Hawker stated that he would be uncomfortable stipulating that the developer certify that the various systems are in operational order. He suggested that it would be more appropriate for potential buyers to conduct their own inspections to ensure that the plumbing and air conditioning systems, for instance, are in good working order.

Ms. Spinner responded that if the developer agreed to such stipulations as outlined by Councilmember Somers, they could be included in the zoning ordinance. She noted, however, that unless there is a legal requirement for certain inspections to be conducted, which she is unaware of at this time, it would be at the discretion of the Council whether to include such items as part of the zoning ordinance.

Councilmember Rawles concurred with Mayor Hawker that it would be difficult for the City to ask the developer to certify, for instance, that an air conditioner would not break down or that there would never be any plumbing or electrical problems in the townhome units. He suggested that staff and the applicant review the stipulations as proposed by the Council and that the case be reintroduced and adopted on the dates suggested by Ms. Spinner.

Discussion ensued relative to the fact that staff is working with the applicant with regard to this case at the same time that they are processing the preliminary plat for "Falcon Glenn Townhomes;" that such processing would not be delayed while staff and the applicant review the Council's proposed stipulations; the fact that a building permit is not required for the project because of the change in ownership; and that the Fire Department does have the authority under the Code to inspect existing structures and could conduct an inspection legitimately and advise the applicant if, for example, smoke detectors were missing from the units.

Vice Mayor Walters expressed concern regarding potential fire issues with regard to a building with multiple adjoining walls, but noted that she was unsure how the matter could be addressed in the stipulations. She commented, however, that with regard to the inspection of various systems in the units, such inspections are the responsibility of the prospective homebuyers.

Building Safety Director Terry Williams clarified that the Code requirements are identical for an apartment and a townhome and advised that a "one-hour separation" is required between units. He suggested that it might be appropriate for staff to add a condition that the Fire Department has investigated the matter to ensure that the walls have not degraded over the life of the building.

Vice Mayor Walters concurred with Mr. Williams' suggestion.

In response to a question from Councilmember Somers, Mr. Tomecak explained that the apartments are single story units. He stated that each unit has its own air conditioning, electrical and plumbing system and that a malfunction of one of those systems would not impact an adjacent townhome unit

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Zoning Case **Z07-83** be continued to the September 4, 2007 Regular Council meeting.

Ms Spinner clarified that because the public hearing is being continued, the public hearing would actually be conducted on September 17th and the case would come back for reintroduction on September 4th.

Vice Mayor Walters withdrew her previous motion and Councilmember Jones withdrew his second to the motion.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Zoning Case **Z07-83** be reintroduced at the September 4, 2007 Regular Council Meeting with additional stipulations, and that the September 17, 2007 Regular Council Meeting be established as the date for the public hearing.

Carried unanimously.

9. Hear, discuss and take action on the appeal of the following Design Review Board case:

9a. **DR07-85 (District 6) Pecos Gateway** Southwest corner of Pecos and 88th Street. Approval of three industrial buildings. Pecos Gateway LLC owner; Tim Rasnake, Archicon, applicant.

Design Review Board Decision: Passed. (Vote: 5-0, DiBella and LeSueur absent)

Reese Anderson, 1930 East Brown, #101, the applicant, reported that three neighbors appealed the decision of the Design Review Board regarding this case. He stated the opinion that the appeal is being used to prevent the development of the area and commented that the applicant has met the intent of the design, the letter of the law, and the spirit of the law. Mr. Anderson stated that although most of the issues raised by the neighbors are outside of the Design Guidelines as set forth in the Zoning Code, the developer has nevertheless met them.

Mr. Anderson reported that he provided the Council with an August 20, 2007 letter earlier in the week, which outlines the final plans regarding the case. He advised that in reading through the neighbors' letters of appeal, their primary requests included softening the southern building

elevations, installing grass in the retention area, using tile roofs, providing a 12-foot screen wall, imposing deed restrictions, and complying with the Gateway Development Plan.

Mr. Anderson displayed a PowerPoint presentation and offered a short synopsis of the final approved Site Plan and Elevation and Landscaping Plans approved by the Design Review Board (DRB) with a few conditions at its July 5, 2007 meeting. He advised that the applicant made a series of changes as requested by the DRB, which were ultimately approved by staff and the Council.

Mr. Anderson summarized the revisions implemented by the developer as follows: the landscape area on the south side of the project adjacent to the neighborhood was redesigned to incorporate grass; revisions were made to the color palette, building materials and design elements; the metal roof was changed to concrete tile; the amount of stone was increased; new decorative light fixtures were provided; a 12-foot screen wall was added; and proportions were modified throughout the project. Mr. Anderson further commented that the developer is also willing to impose deed restrictions on the property and has met with the neighbors regarding that issue.

Mr. Anderson indicated that in speaking earlier this evening with Mr. Mokryj and Mr. Stevenson, two of the appellants, they gave him their permission to inform the Council that they are now "one hundred percent comfortable" with the project.

Diane Woods, 1426 West Pepper Place, commented that the project she viewed at the DRB meeting was unattractive, but stated that the changes as outlined by Mr. Anderson are well done. She noted that it is her perception that projects designed in an unattractive manner, seem to attract individuals who wish to commit crimes.

Gregory Woods, 1426 West Pepper Place, expressed support for the project, which, in his opinion, is well designed and would complement the adjacent residential neighborhood.

Doug Chapman, 8715 East Woodland Avenue, spokesman for the Queens Park subdivision, said that when he attended the DRB meeting, the project was not as it appeared in Mr. Anderson's presentation tonight. He explained that the developer made various changes as a result of the neighbors' input and added that the neighbors would continue to monitor the project. Mr. Chapman further commented that based on Mr. Anderson's letter, which outlines the final plans for the project, as well as the photographs depicted in the PowerPoint, he is supportive of the design. He noted, however, that the neighbors would prefer that the project not be in such close proximity to their homes.

Anson Ladell Call, 8660 East Waterford Circle, concurred with the comments of the previous speaker. He expressed support for the revisions that have been incorporated into the plan and also thanked the developer for reaching a compromise with the neighbors in this regard.

Mayor Hawker commented that speaker/comment cards were received from Kathryn Plant and Dan Sundstrom who did not wish to address the Council. He stated that both individuals urged the developer to adhere to the proposed design revisions.

Planning Director John Wesley commented that staff recommends that the decision of the DRB be upheld.

Councilmember Somers thanked Mr. Call for meeting with him this morning concerning this matter. He offered a brief explanation regarding the procedure that is followed by the DRB when a case is presented to them for consideration and stressed the fact that citizen input is a crucial component in the process.

It was moved by Councilmember Somers, seconded by Vice Mayor Walters, to affirm the decision of the Design Review Board.

Vice Mayor Walters stated that she wanted to stipulate that by approving this motion, the Council is agreeing to Mr. Anderson's August 20, 2007 letter, to the design that was presented to the Council this evening, and also that the applicant would file private agreements regarding deed restrictions. She inquired whether Councilmember Somers was including those components as a part of his motion.

Councilmember Somers concurred that he supports the imposition of deed restrictions, which are private matters outside the authority of the City. He also concurred with Vice Mayor Walters' statement relative to the motion.

In response to a question from Mayor Hawker, Mr. Wesley confirmed that the Council is concurring with the DRB's recommendations for approval and denying the appeal to overturn its decision.

Vice Mayor Walters clarified that the reason she placed the above-referenced stipulations on the record is because there was concern that the project approved by the DRB was not what was presented tonight. She added that she also wanted the record to reflect that Mr. Anderson agreed "to meet our previous agreement to file the deed restrictions."

Mayor Hawker called for the vote.

Carried unanimously.

10. Take action on the following subdivision plats:

*10a. "BROADWAY MESA COMMONS CONDOMINIUMS" (**District 3**) 1716 West Broadway Road (north side) located north and east of Broadway Road and Dobson Road. 13 M-1-PAD industrial condominium units. (3.82 ac.) Broadway Mesa Commons, LLC, Robert Nuttall, manager, owner.

*10b. "THE SHOPPES AT PARKWOOD RANCH" (**District 6**) 10600-10800 blocks of East Southern Avenue (north side) located north and west of Southern Avenue and Signal Butte Road. 7 C-2-DMP commercial lots. (15.76 ac.) Weingarten/Investments, Inc., Andrew Alexander, president, owner.

*11. Approve write-off of utility and miscellaneous accounts for the three-month period ending June 30, 2007 totaling \$336,447. Collection efforts will continue with respect to all of these accounts, including the assignment of accounts to a collection agency.

12. Items from citizens present.

There were no items from citizens present.

13. Adjournment.

Without objection, the meeting adjourned at 6:55 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 27th day of August 2007. 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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