

COUNCIL MINUTES

May 6, 2002

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 6, 2002 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
Debbie Spinner
Barbara Jones

Invocation by Reverend Tom Wick, Sr. Pastor, St. Matthew United Methodist Church.

Pledge of Allegiance was led by Wilma Langfitt.

Mayor Hawker welcomed everyone to the meeting.

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.

Mayor Hawker stated that agenda items 5b, 5c, 5f and 5g would be removed from the consent agenda.

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

Carried unanimously.

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

Minutes from the March 14 and 28, 2002 and April 1, 4, 11 and 15, 2002 Council meetings.

Minutes from the April 9, 2002 Joint Council Meeting with the Town of Gilbert.

3. Conduct a public hearing for the following proposed annexations:

- a. **A02-1** North of Main Street and east of 65th Street. (5⁺ acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding proposed annexation A02-1.

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

- b. **A02-2** North of Main and west of 67th Street. (5[±] acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding proposed annexation A02-2.

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

- c. **A02-3** North of University Drive and west of Power Rd. (28[±] acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding proposed annexation A02-3.

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

4. Consider the following liquor license applications:

- *a. JAN A. SAUERS, CHAIRPERSON

Special Event License application of Jan A. Sauers, Chairperson, Fountain of the Sun, a one-day civic event to be held on Saturday, November 2, 2002 from 2:00 p.m. to 10:00 p.m., at 540 S. 80th St., Fountain of the Sun Hall.

- *b. JOE C. JUAREZ, SECRETARY/TREASURER

Special Event License application of Joe C. Juarez, Secretary/Treasurer, East Valley Hispanic Bomberos Association Inc., a one-day charitable event to be held on Saturday, May 11, 2002 from 8:00 a.m. to 8:00 p.m., at 2202-04 W. 8th St., Riverview Park.

- *c. SHELBY L. FUTCH, AGENT

Person transfer Bar License, Red Mountain Ranch Country Club, 6425 E. Teton Road. This is an existing business. This transfer is from H. J. Lewkowitz, Agent, American Golf Corporation.

*d. JAN KHAN, AGENT

New Beer and Wine Store License for Valley Market, 760 S. Alma School Road. This is an existing business. The license previously held at this location by Iyad S. Radi, Agent, Valley Food Stores LLC, will revert back to the State.

*e. DOUGLAS W. THOMPSON, ETAL

New Restaurant License for Carrabbas Italian Grill, 1740 S. Clearview. This is an existing business. The Restaurant License previously held at this location by Douglas W. Thompson, Etal, Carrabba's/Arizona 1 Limited Partnership, will revert back to the State.

*f. JERRY D. ZWINGELBERG, AGENT

New Restaurant License for Damon's Grill, 155 S. Power Rd. This is a vacant lot. No previous liquor licenses at this location.

g. MARY L. MATTA, AGENT

New Restaurant License for Dos Matta's, 1425 S. Alma School Rd., Ste 105. This was an existing business. The Restaurant License previously held at this location by Rochelle M. Krispin, Agent, BBG Restaurants, LLC, the establishment was closed in November of 2001.

Councilmember Whalen declared a potential conflict of interest and refrained from discussion/participation in this item.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that this liquor license application be approved.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

*h. CHON MING TSANG, AGENT

New Restaurant License for Win's Asian Cuisine, 830 W. Southern Avenue, #1. This was an existing business. The Restaurant License previously held at this location by Steven Curtis Cutner, Agent, Scaroles, Inc. never renewed their 2001 liquor license.

5. Consider the following contracts:

- a. Basketball court refinishing as requested by the Parks & Recreation Division.

The Purchasing Division recommends accepting the overall low bid by Arizona Master Court LLC at \$27,835.00.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

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

Paul Campbell, 1120 S. Sycamore, #154, addressed the Council regarding this item and commented on recent bus transit cutbacks of routes in west Mesa that were previously funded by the City of Tempe and voiced the opinion that the proposed cost of refinishing basketball courts is excessive when compared to the recent bus service cutbacks and resultant impacts on residents. He also commented on the benefits associated with bus transit, including reduced traffic and air pollution, and said that he relies on bus service for transportation, including to and from work.

Mr. Campbell indicated that his stated concerns and opinions also apply to agenda items 5b, 5c, 5f and 5g.

In response to a question from Councilmember Pomeroy concerning the necessity of the proposed refinishing, Community Services Manager Wayne Korinek explained that the proposed basketball court refinishing (Pioneer, Dobson, Falcon Hill, Alta Mesa and Princess courts) is for maintenance and safety purposes to prevent the courts from becoming slick and cracking and causing injuries to the users. He also commented on the existing conditions and the ages of the various courts proposed for refinishing.

It was moved by Councilmember Pomeroy, seconded by Councilmember Walters, that the recommendations of staff be approved.

Councilmember Walters commented on the difficult task of determining necessary expenditures within a restricted budget and on the Council's general support concerning bus transit. She also stressed the importance of maintaining basketball courts in a safe manner to minimize the risk of injury and protect the City from liability exposure.

Councilmember Kavanaugh concurred with the concerns stated by Mr. Campbell regarding the recent bus service cutbacks and voiced the opinion that it is important that the voters address the City's current and future transit and transportation funding needs at a future election. He commented on the Vision 2025 Transportation Plan and the work of citizen advisory groups relative to the City's transportation needs. He also stressed the importance of educating Mesa voters regarding the critical nature of these issues.

Upon tabulation of votes, it showed:

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

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

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

- b. Document Management Software for the Police Department as requested by Information Services.

The Purchasing Division recommends accepting the only bid for document management software from Western Office Systems for \$29,550.22, including applicable sales tax.
(Sole Source)

(Paul Campbell indicated that his concerns and opinions stated in connection with item 5a also apply to this agenda item.)

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Davidson, that staff's recommendations be approved.

Carried unanimously.

- c. Two-year renewal of the supply contract for magnesium anodes for Materials and Supplies inventory to be used by the Utility Construction Division.

The Purchasing Division recommends exercising the two-year renewal option with the original low bid by Farwest Corrosion Control Company at \$23,409.99 based on estimated annual requirements.

(Paul Campbell indicated that his concerns and opinions stated in connection with item 5a also apply to this agenda item.)

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Davidson, that staff's recommendations be approved.

Carried unanimously.

- *d. Two-year supply contract for patrol bicycles as requested by the Police Department.

The Purchasing Division recommends accepting the only bid meeting specification by Adventure Bicycle Company at \$32,145.96.

- *e. Two-year supply contract for Repair and Maintenance of Aerial Equipment as requested by Fleet Support Services.

The Purchasing Division recommends a dual award to Pacific Utility Equipment as primary contractor, and Sav-Trac of Arizona as secondary contractor for combined annual purchases estimated at \$100,000.00.

- f. Publication and distribution of the TimeOut magazine as requested by the Community Services Department.

The Purchasing Division recommends accepting the low bid by Tribune Newspapers for annual expenses estimated at \$91,364.58 based on three issues per year.

(Paul Campbell indicated that his concerns and opinions stated in connection with item 5a also apply to this agenda item.)

It was moved by Councilmember Walters, seconded by Vice Mayor Davidson, that staff's recommendations be approved.

Carried unanimously.

- g. Two patrol sedans and four sports utility vehicles for the Police Department. All are additions to the fleet.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford for a total of \$152,938.16.

(Paul Campbell indicated that his concerns and opinions stated in connection with item 5a also apply to this agenda item.)

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that staff's recommendations be approved.

Carried unanimously.

- *h. Two-year supply contract for recapping of truck tires in the warehouse inventory as requested by the Fleet Support Services Division.

The purchasing Division endorses the Evaluation Team's recommendation to accept the proposal by Bridgestone/Firestone dba GCR Tire Service Center for annual purchases estimated at \$350,000.00.

- i. Desert Wells #3 Equipment and Piping. City of Mesa Project No. 00-63.1.

This project will install new piping, well cap, pump, motor, chlorine facility, mechanical and electrical equipment at a new well that has been recently drilled. This will expand the city's water supply capabilities and system reliability in the rapidly growing Desert Wells Zone.

Recommend award to low bidder, Quest Civil Constructors in the amount of \$397,397.00 plus an additional \$39,739.70 (10% allowance for change orders) for a total award of \$437,136.70.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

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

It was moved by Councilmember Whalen, seconded by Councilmember Kavanaugh, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

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

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

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

- j. 8th Street Retaining Wall, 1608,1616, and 1624 West Mountain View. City of Mesa Project No. 01-135.

This project constructs approximately 233 linear feet of 5-foot high retaining wall along the right-of-way line and reinstalls the property fences atop the new wall. The ground between the right-of-way line and back of walk will be graded flat to eliminate future erosion and maintenance.

Recommend award to low bidder, CB Contracting, Inc., in the amount of \$54,370.00, plus an additional \$5,437.00 (10% allowance for change orders) for a total award of \$59,807.00.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

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

It was moved by Councilmember Walters, seconded by Councilmember Kavanaugh, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

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

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

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

- k. Mesa Arts Center and Mesa Town Center Streetscape Improvements, Phase 4. City of Mesa Project No. 99-70 and 01-124.

This project will construct and equip the Lyric and Repertory Theaters, gallery, class space and landscaping; chilled water central plant; and the completion of the Streetscape project along the Mesa Arts Center frontage. The add alternates include construction and equipping of the Playhouse and Signature Theaters; architectural fabric canopies; sunshade fabric and skylights.

Recommend award to low bidder, Layton Southwest Inc. in the amount of \$72,469,045.90 (total after the deduct change order of \$1,243,590.00 as described in the Council Report) plus an additional \$3,623,431.00 (5% allowance for change orders) for a total award of \$76,092,476.90.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Davidson, who yielded the gavel to Councilmember Kavanaugh, as a member of the Mesa Arts Center Design Committee, for action on this agenda item.

Arts and Cultural Director Geri Gerber provided a brief historical overview concerning this item and said that this recommended construction contract award culminates the three-year planning and design process of this project. She voiced appreciation to members of the Mesa Arts Center Design Committee, the Museum and Cultural Advisory Board and the Mesa Arts and Entertainment Alliance for their efforts regarding this project. She noted that the Alliance has committed to raising \$3.7 million in supplemental funding for the Center.

Ms. Gerber stated that staff recommends award of the construction contract to the low bidder, Layton Southwest, Inc., and she introduced various principals of the company who were present including David Layton, President.

Ms. Gerber reported that in addition to replacing the existing Mesa Arts Center (MAC) at 155 N. Center, which is the home of the Mesa Contemporary Arts Gallery, the MAC theater and various classrooms accommodating 600 performing and visual arts classes each year, the new Mesa Arts Center will feature a four theater complex offering venues for Mesa's numerous performing arts groups and a broad range of touring entertainment including Broadway shows, concerts, film series, dance and other family entertainment.

Ms. Gerber advised that two architectural firms and 20 design firms collaborated to design the new Mesa Arts Center and she introduced Jeremy Jones of DWL Architects & Planners, Inc. and Michael Tingley, Project Designer from BOORA Architects, Inc.

Mr. Tingley commended City staff and particularly the members of the Design Committee for their ongoing efforts and dedication to the project.

Mr. Tingley referred to artist renderings and a model of the Mesa Arts Center on display in the Council Chambers and discussed the various facilities and design features of the proposed project. He outlined the scale of the project and the various structures, including a 35,000 square foot Community Arts School (studios building), a 15,000 sq. ft. Contemporary Arts Gallery Museum, and a 160,000 sq. ft. theater building containing four theaters (Lyric, Repertory, Playhouse and Studio). He described the "Shadow Walk," an arc-shaped public plaza running through the project providing access to the various facilities and incorporating a landscape featuring various shade features, an extensive use of trees, special gardens, a series of fountains, an arroyo and other water amenities. He said that it is anticipated that the Shadow Walk will become the heart of the project, host outdoor performances and serve as a gathering place.

Mr. Tingley stated that this project is unlike any other municipal arts center in the United States and has numerous unique qualities, particularly the number of theaters, the arts/education component and the extensive public plaza.

Vice Mayor Davidson commented on the recent design/construction modifications made to the project to reduce the overall cost and specifically noted the landscaping and noise abatement modifications.

In response to a question from Vice Mayor Davidson concerning the reduction of tree sizes, Mr. Tingley stated that reducing the size of the trees is proposed to reduce landscaping costs versus reducing the number of plantings. He explained that after approximately 3-4 years of growth there would be minimal difference in the comparable size of the trees because smaller trees suffer less transplant shock and grow faster than larger trees.

In response to questions and concerns voiced by Vice Mayor Davidson regarding the proposed modifications concerning sound control features, Mr. Tingley advised that careful consideration was given to the sound control modifications to avoid compromising the acoustic environment of the theaters, and that the major mechanical systems, including the chilled water cooling system, are isolated in the central plant building in the rear of the project.

In response to a question from Councilmember Jaffa concerning parking facilities, Mr. Tingley reported that the project does not include any additional parking facilities and he commented on nearby parking. He explained that a previous study supported the concept of utilizing the existing nearby parking facilities in the downtown area and noted that the study concluded that utilizing existing downtown parking would encourage pedestrian traffic in the downtown area.

Councilmember Jaffa voiced concerns regarding the lack of garage parking to serve the Center, particularly to accommodate visitors during the summer months.

Further discussion ensued regarding existing parking and potential future parking sites.

(Paul Campbell indicated that his concerns and opinions stated in connection with item 5a also apply to this agenda item.)

District 6 Councilmember-Elect Janie Thom addressed the Council concerning this agenda item and requested that the Council consider postponement of the Mesa Arts Center at this time. She stated concerns regarding the cost of the project and reduced City revenue streams including sales tax revenue and utilities revenue. She commented on other components of the Quality of Life sales tax measure including public safety, parks, street improvements and maintenance and stated the opinion that there is a great need for street improvements and additional youth sports fields. Ms. Thom also voiced the opinion that it is unwise to allocate such a large amount of funds for a "non-essential building project" when necessities are unfunded.

Joanie Flatt, 623 W. Southern, President of the Mesa Arts and Entertainment Alliance, addressed the Council and commented on the significant efforts devoted to this project for numerous years. She also commented on the voters' approval of this project as a Quality of Life project and reported that it is estimated that the Mesa Arts Center will be utilized by approximately one million people each year. Ms. Flatt thanked the Councilmembers for their support of the project.

Councilmember Pomeroy stated approval for the project and reiterated his historic direction that the project remain on schedule and under budget. He voiced the opinion that because this project was voter authorized, the Council would be remiss to delay the project at this time. He also stated the opinion that the Mesa Arts Center will benefit many future generations of Mesa residents and will also benefit economic development in the Town Center area.

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

Councilmember Walters stated support for the project and said that she receives frequent input from residents urging construction of the new Mesa Arts Center. She voiced the opinion that the size and scope of the City dictates the need for amenities for residents and discussed the role art plays with respect to quality of life within a community. She stated the opinion that investing in this project represents an investment in the youth and future of the community and voiced appreciation to everyone involved in the project.

Councilmember Jaffa voiced support for the project and appreciation for the significant efforts of resident volunteers and staff involved in the project. He stated the opinion that the Mesa Arts Center will be a world-class facility, help attract businesses and residents to the City and act as a catalyst for further redevelopment in the Town Center.

Vice Mayor Davidson outlined the various sources of funding for the project, including \$66.5 million from Quality of Life sales tax, utility revenue funds, and Arts and Cultural Impact Fees; \$2.8 million from Street Bonds; and \$3.2 million from private funds raised by the Mesa Arts and Entertainment Alliance. He voiced the opinion that the commitment made by the Mesa Arts and Entertainment Alliance reflects citizen commitment to the project and also reflects the progressive history of the State and he commented on the efforts and investments made by early settlers and farmers in the community. He stated support for the project and particularly for the visual and performing arts education component provided for youth.

Councilmember Whalen congratulated the citizen volunteers and staff involved in this project and voiced appreciation for their work. He commented on the important role volunteers play in the community and urged citizens to also offer support concerning the Aquatics Center. He stated support for the project and stated the opinion that providing arts and entertainment amenities is a critical element of attracting quality employers to the City.

Councilmember Kavanaugh stated support for the project, discussed his role as Council liaison on the Mesa Arts Center Design Committee and also discussed the fact that prior to Mayor Hawker's recent abstention, this Council and prior Councils have unanimously supported this project. He stated the opinion that the arts play an important role in the quality of life of a community and added that the design of the Center reflects the input and needs of the community.

Upon tabulation of votes, it showed:

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

Councilmember Kavanaugh declared the motion carried unanimously by those voting.

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

6. Introduction of the following ordinances and setting May 20, 2002 as the date of public hearing on these ordinances:

- *a. Prohibiting parking from 8:00 a.m. to 4:00 p.m. on school days on the south side of Fountain Street from a point 100 feet east of 26th Street to a point 185 feet east of 26th Street, reducing the speed limit from 40 mph to 35 mph on Mesa Drive from a point 620 feet north of Eighth Street to Brown Road; and including Mesquite Canyon from Guadalupe Road to Canyon Rim and Canyon Rim from Mesquite Canyon to a point 413 feet south of Plana Avenue in Section 10-3-17 of the Mesa City Code, "Special Stops Required," as recommended by the Transportation Advisory Board.
- *b. Modification to the City of Mesa Zoning Ordinance, Chapters 14 and 15 to change the Design Guidelines, Landscaping and Screening regulations.

7. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa Police Department and the Maricopa County Sheriff's Department for the funding of overtime for officers assigned to the HIDTA (High Intensity Drug Trafficking Area) – Resolution No. 7823.
- b. Authorizing the City Manager to execute an Intergovernmental Agreement between Salt River Project Agricultural Improvement and Power district and the City of Mesa for the Photovoltaic Demonstration Project at the East Mesa Regional Library – Resolution No. 7830.

Vice Mayor Davidson declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

It was moved by Councilmember Whalen, seconded by Councilmember Kavanaugh, that Resolution No. 7830 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 7830 adopted.

- *c. Extinguishing a temporary drainage easement at 2809 South Sossaman Road – Resolution No. 7824.

A new permanent drainage solution has been approved making the temporary easement no longer necessary.

- d. Extinguishing a portion of a Public Utilities Easement at 7703 East Des Moines Street – Resolution No. 7831.

This portion of the easement is no longer required.

Vice Mayor Davidson declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that Resolution No. 7831 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 7831 adopted.

- *e. Authorizing the sale of a portion of two City owned properties located at Thomas Road and Lehi Road and Thomas Road and Higley Road to the Arizona Department of Transportation – Resolution No. 7825 and Resolution No. 7826. (Two resolutions)

This property is needed for the Red Mountain Freeway.

- *f. Authorizing the City Manager to amend an Intergovernmental Agreement with Maricopa Community College District for a Community Development Block Grant (CDBG) Funded Sun Sounds SCA Radio Purchase – Resolution No. 7827.
- *g. Authorizing the City Manager to enter into an agreement with ATC (formerly Forsythe & Associates) to provide farebox maintenance services – Resolution No. 7828.
- *h. Adopting a Historic Preservation Plan for the City of Mesa – Resolution No. 7829.
- i. Approving and authorizing the City Manager to execute an Intergovernmental agreement between Salt River Project and the City of Mesa – Resolution No. 7832.

Vice Mayor Davidson declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

It was moved by Councilmember Walters, seconded by Councilmember Kavanaugh, that Resolution No. 7832 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 7832 adopted.

8. Consider the following ordinances:

- *a. Prohibiting parking on Las Sendas Mountain Drive from Eagle Crest Drive to Hawes Road, on the north side of Eighth Street from Stapley Drive to a point 320 feet east of Stapley Drive, on the south side of Eighth Street from Stapley Drive to a point 260 feet east of Stapley Drive, and on Valley Auto Drive from Greenfield Road to Baseline Road; as recommended by the Transportation Advisory Board – Ordinance No. 3980.

*9. Write-off of utility and miscellaneous accounts in the amount of \$205,268.00.

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

- a. **Z02-06** The southeast corner of Brown Road and Recker Road. Site plan modification (1.5 ac.). This case involves the development of a pharmacy. Gustine Company, owner; Withey, Tobin, Anderson and Morris, P.L.C., applicant; represented by Jason B. Morris – Ordinance No. 3985.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Subdivision Technical Review Committee for the replat of "Smith's 308."
7. Recordation of vehicular cross-access and reciprocal parking easements between the five lots to be created in conjunction with the replat of "Smith's 308."
8. Compliance with all requirements of the Design Review Board.
9. All pad buildings to be architecturally compatible with the center.
10. Full compliance with all current Code requirements.
11. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
12. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City concurrently with the recordation of the final subdivision map and prior to the issuance of a building permit.
13. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
14. Noise attenuation measures be incorporated into the design and construction of the building to achieve a noise level reduction of 25 db.
15. Deletion of PAD A.

Jason B. Morris, an attorney representing the applicant, addressed the Council and provided background information relative to this case including the fact that this proposed site plan amendment involves redevelopment of a vacant Smith's grocery store. He stated that this site was annexed into the City in 1987 and the approved site plan included the pad for the Smith's grocery store plus three additional building pads that were never developed. He reported that the Smith's grocery store closed approximately four years ago and has remained vacant. He further reported that the proposed site plan amendment meets the current City requirements and that the applicant is not requesting any variances to redevelop the site. He noted that the applicant has endeavored to also meet the proposed updated Commercial Design Guidelines. He also noted that since obtaining a unanimous recommendation for approval from the Planning and Zoning (P & Z) Board, the applicant has expanded the setbacks and landscaping. He advised that 10 feet of landscaped setback currently exists at the site and the proposed site plan provides 30 feet of landscaped setback along Recker Road and 25 feet of landscaped setback along Brown Road and noted that these setbacks exceed the City's existing

requirements. He also commented on the existing large unsegmented grocery store parking lot and noted that the proposed site plan provides for parking field separation and building separation which exceed the requirements outlined in the updated Commercial Design Guidelines.

Mr. Morris reported that the proposed amended site plan provides for the development of a CVS Pharmacy on the pad at the corner of Brown and Recker Roads. He noted that although the proposed pad for the pharmacy is larger than the pad size approved under the original site plan, the original plan incorporated a drive-thru restaurant. He added that the traffic report provided in connection with this case concludes that the traffic generated by the proposed drive-thru pharmacy window would be half of that generated by a drive-thru restaurant. Mr. Morris stated that the applicant is spending several million dollars to purchase the entire site and is committed to redeveloping the entire site, including the vacant grocery store.

Planning Director Frank Mizner addressed the Council and provided a brief overview concerning this case. He noted that the appropriate C2 zoning is in place and the proposed pharmacy with drive-thru facilities is a permitted use in this classification. Mr. Mizner advised that staff recommended denial of this case for three reasons: 1) technical concerns relative to vehicular and pedestrian circulation; 2) visibility/viability of the main shopping center due to the expanded pad site for the pharmacy; and 3) expressed citizen concerns regarding a proliferation of pharmacies in this area. Mr. Mizner stated that the applicant has proposed modifications to the amended site plan which would address most of staff's concerns regarding traffic circulation and that the applicant's investment in the entire center minimizes staff's concern regarding viability of the main shopping center. Mr. Mizner reported that copies of letters received from three area residents expressing concerns regarding the number of pharmacies in the area were provided to Councilmembers and he noted that the P & Z Board opined that their role does not include market regulation. He also noted that P & Z Board Vice Chairman Marti Whalen raised the issue of requiring a "tear-down" or a performance bond for pharmacies and that staff is in the process of researching this issue.

Mr. Mizner reported that the P & Z Board unanimously recommends approval with the conditions outlined in staff's report, which includes deletion of PAD A as offered by the applicant (previously approved unbuilt pad located adjacent to Recker Road). He added that the applicant's deletion of PAD A helps address the traffic circulation and visibility/viability concerns of staff.

In response to a question from Vice Mayor Davidson regarding the proposed landscaping, Mr. Mizner explained that although the proposed landscaped setbacks, including right-of-way and on-site areas, do not meet the proposed updated Design Guidelines, the applicant has proposed to use the same number of plantings that would be provided with the larger setback, to achieve a similar visual effect.

In response to a question from Vice Mayor Davidson regarding the applicant's intentions concerning the vacant grocery store, Mr. Morris stated that the applicant is actively marketing the entire center including the vacant grocery store space and he noted that because there are few users for 53,000 sq. ft. retail space, it is anticipated that the vacant store will be divided into smaller spaces. He added that redevelopment of the entire site is an economic necessity for the applicant and the pharmacy will help promote redevelopment of the remaining site.

Discussion ensued regarding the proposed parking area for the pharmacy, the parking requirements anticipated in connection with the remaining shopping center, the fact that large parking areas for pharmacies have become a trend, and the fact that there is an existing Osco drugstore on the west side of Recker Road at this intersection.

Vice Mayor Davidson stated that although he generally values and supports development/redevelopment in the City, he concurs with staff's concerns in this case. He also voiced concerns regarding whether the proposed development of the pharmacy on the corner is appropriate for this site.

In response to a question from Vice Mayor Davidson regarding the applicant's proposal to develop the pharmacy on the corner of the site rather than utilizing the vacant grocery store, Mr. Morris discussed the changing role of pharmacies into a "village market" concept and their successful use of convenient corner sites.

Discussion ensued regarding the fact that CVS is establishing a corporate presence in the City and the fact that two additional CVS Pharmacies are currently in the planning/development stages.

Councilmember Walters stated appreciation for private redevelopment that occurs within the City and commented on the difficulties and limitations associated with redevelopment/reuse of existing structures. She also indicated that she concurs with residents' stated concerns regarding a lack of restaurants in the area and noted that it is possible that future redevelopment of the shopping center might include a restaurant.

Councilmember Pomeroy stated support for the P & Z Board's recommendations and for the project. He voiced the opinion that it is not the Council's role to mandate the specific uses in this type of a project and that the "free market concept" should be allowed to regulate the number of pharmacies in the City.

Discussion ensued regarding the proposed landscaping improvements adjacent to the proposed pharmacy.

In response to questions from Mayor Hawker concerning the proposed landscaped setbacks and the existing retaining walls adjacent to the pharmacy pad, Mr. Morris advised that the proposed 30 foot landscaped setback on Recker Road includes 10 feet between the retaining wall and the sidewalk and 20 feet inside the retaining wall. Mr. Morris reiterated that the proposed landscaped setback on Brown Road is 25 feet.

Discussion ensued regarding the proposed setback and the existing wall at the actual corner, the proposed radius, and the distance from the corner to the proposed improvements.

Mayor Hawker suggested that the applicant provide a more effective landscaping buffer by demolishing the existing screening walls and rebuilding the walls closer to the pharmacy structure, which would increase the amount of landscaped area between the street and the screening walls.

Mr. Morris concurred with Mayor Hawker's suggestion but also noted that the applicant desires to have an effective portion of the proposed landscaping inside the wall to provide an attractive environment for patrons of the shopping center.

Mayor Hawker further suggested that perhaps a 20 foot landscaped buffer outside the wall (between the sidewalk and the wall) and a 10 foot landscaped buffer inside the wall may be a more appropriate distribution.

Discussion ensued regarding existing landscaping at the shopping center, additional landscaping improvements that are proposed in conjunction with future redevelopment of the remaining shopping center, and the fact that the remaining landscaping improvements proposed along Recker Road will be constructed during the initial phase of the subsequent redevelopment and will consist of expanding the buffer and providing additional trees.

Mayor Hawker voiced support for the project and directed staff to ensure that the Design Review Board considers his comments and suggestions relative to the landscaping buffers and screening walls during their consideration of this case.

Councilmember Whalen stated support for the project and urged the applicant to secure reuses for the vacant grocery store as soon as possible.

Councilmember Jaffa stated support regarding the redevelopment of this site and commented on the investment made by the applicant to purchase the entire site. He also voiced approval regarding the fact that the drive-thru restaurant was eliminated from the site plan and the fact that alternative reuses of the vacant grocery store will provide additional sales tax revenue to the City. He added the opinion that the benefits associated with this redevelopment project outweigh the concerns regarding the pharmacy use at the corner.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that Ordinance No. 3985 be adopted.

Vice Mayor Davidson voiced opposition to the motion and urged the Design Review Board to carefully consider this case.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 3985 adopted.

- *b. **Z02-07** 7909 E. Broadway Road. Rezone from O-S PAD to R-2 PAD (3.1 ac.). This case involves the development of a residential subdivision. Charles Deaton, owner; Farnsworth Holdings, Inc., applicant; represented by: Gary Stapley – Ordinance No. 3981.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Submittal of revised elevations to the Subdivision Technical Review Committee in compliance with the building code requirement that does not allow eave overhang over property lines.
7. Compliance with all requirements of the Subdivision Technical Review Committee.
8. Written notice to be provided to the future residents, and acknowledgment received that the project is adjacent to a golf course.
9. Compliance with letter dated March 11, 2002 from Gary Stapley to Frank Mizner, which is included in the zoning case file.
10. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
11. Written notice to be provided to future residents, and acknowledgment received that the project is within six miles of Williams Gateway Airport.
12. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
13. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
14. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*c. **Z02-08** 2554 E. McKellips Road. Rezone from R-4 to O-S (0.19 acres). This case involves the development of a small medical office. Pat Hallman, owner/applicant – Ordinance No. 3982.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted without guarantee of lot coverage except as noted below.
2. Compliance with all City development codes and regulations.

3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication whichever comes first.
5. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport, which will be prepared and recorded by the City prior to the issuance of a building permit.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Recordation of vehicular cross-access with parcels 141-08-015E (subject parcel) and parcel 141-08-001E to the north.
8. Compliance with all requirements of the Design Review Board.
9. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance outlined in the staff report.
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *d. **Z02-09** Generally the land south of McKellips Road to McLellan Road and east of Ellsworth Road to Crismon Road (202± acres). Establish City zoning districts of R1-43, R1-35-PAD, and R1-15-PAD. Various, owner; City of Mesa; applicant – Ordinance No. 3983.

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

1. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. 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.
4. All street improvements and perimeter landscaping to be installed in the first phase of construction.
5. Compliance with all City development codes and regulations.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. Compliance with stipulations established by the County Board of Supervisors.

- *e. **Z02-10** The southeast corner of Hawes Road and East Pueblo Avenue (10.02 acres). Rezone from R-4 to R1-6 P.A.D. This case involves the development of single-family homes. Steven Cross, owner/applicant – Ordinance No. 3984.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. The homes constructed in this subdivision must comply with the Residential Subdivision Guidelines and elevations must be submitted for administrative review and approval from the Planning Director prior to the filing of a building permit application.
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. 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.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City concurrently with the recordation of the final subdivision map.
9. Written notice be provided to future residents, and acknowledgment received that the project is within five miles of Williams Gateway Airport.
10. Written notice be provided to future residents, and acknowledgement received that the project is within a half mile of the future Red Mountain Freeway.
11. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
12. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
13. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

11. Consider the following subdivision plat:

- *a. "DOVER INDUSTRIAL PARK – UNIT THREE", – (Council District 5) – 4200 block of East McDowell Road (north side) 8 M-1 industrial lots (17.17 ac) Dover Associates, L.L.C., developer; J. Walborn & Associates, engineer.

12. Election issues.

Mayor Hawker announced that a runoff (General) election will be held on May 21, 2002 to elect a Councilmember in District 5. He said that the two candidates seeking election in that district are Rex Griswold and Councilmember Jaffa and he urged citizens in District 5 to cast an educated vote on Election Day. Mayor Hawker also noted that Councilmembers-Elect Janie Thom (District 6) and Kyle Jones (District 4) were present in the audience.

13. Items from citizens present.

Karen Carr, Falcon Field Estates, addressed the Council and voiced concerns regarding the inadequacy of bus transit operations in Mesa serving low income families and handicapped individuals and the absence of bus service on Sundays.

Paul Campbell, 1120 S. Sycamore, #154, addressed the Council and reiterated his previously stated concerns regarding the recent cutbacks in bus transit operations and resultant impacts on residents. He also commented on the importance of considering long-term environmental impacts and excessive traffic when considering the funding of bus transit operations. He stated support concerning development of the new Mesa Arts Center and urged the Council to consider an improved public transportation system in the City that will provide access to the Mesa Arts Center and other facilities and businesses in the City.

14. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:50 p.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 6th day of May 2002. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK