



# COUNCIL MINUTES

December 2, 2002

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on December 2, 2002 at 5:45 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## STAFF PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

Invocation by Pastor Ottley W. Holmes, Jr., Shiloh Missionary Baptist Church.

Pledge of Allegiance was led by Mayor Hawker.

Mayor's Welcome.

Mayor Hawker welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

### 1. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified with an asterisk (\*) were approved with one Council action.

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

Carried unanimously.

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

The minutes of the October 11, 2002, November 7, 14, 18 and 21, 2002 Council meetings.

3. Consider the following liquor license applications.

a. JAMES H. RYAN, PRESIDENT

Special Event License for James H. Ryan, President, Back to School Clothing Drive Association, a one-day event to be held:

Friday, December 13, 2002 from 11:00 a.m. to 1:00 p.m.,  
Friday, January 10, 2003 from 11:00 a.m. to 1:00 p.m.,  
Friday, January 31, 2003 from 11:00 a.m. to 1:00 p.m.,  
Friday, February 7, 2003 from 11:00 a.m. to 1:00 p.m.,  
Friday, February 14, 2003 from 11:00 a.m. to 1:00 p.m.,  
Saturday, March 8, 2003 from 11:00 a.m. to 2:00 p.m.,  
Saturday, March 15, 2003 from 11:00 a.m. to 2:00 p.m., and  
Tuesday, March 25, 2003 from 5:00 p.m. to 10:00 p.m., at 1101 South Ellsworth Road,  
The Resort.

Mayor Hawker stated that this agenda item was removed at his request so that a representative of the Back to School Clothing Drive Association could provide the Council with greater clarification relative to the purpose of the liquor license application.

Hal Hansen, 6401 South Clark Drive, Tempe, a boardmember of the Back to School Clothing Drive Association, addressed the Council relative to this agenda item. He reported that the Association has entered into an agreement with The Resort to hold a series of hamburger cookouts at the facility, including the sale of beer, and that 25% of the liquor profits from the events will be donated by The Resort to the Association for the purpose of purchasing clothing and school supplies for distribution to needy children. Mr. Hansen stated that the Back to School Clothing Association, a non-profit agency, has been in existence for 36 years, and just this past year, the organization provided clothing, uniforms, backpacks, and school supplies to 9,600 youngsters ages 5 to 12 in the Phoenix metropolitan area.

Mayor Hawker thanked Mr. Hansen for his presentation and also commended the Back to School Clothing Drive Association for their efforts and hard work.

Councilmember Walters concurred with Mayor Hawker's comments.

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

Carried unanimously.

\*b. HARPAL SINGH GREWAL, AGENT

New Beer and Wine Store License for 99 Cents Plus, 1241 East Broadway Road, #20.  
This is an existing business. No previous liquor license for this location.

\*c. RANDY D. NATIONS, AGENT

New Beer and Wine Store License for Mega 99 Cents Super Center, 1410 East Main Street. This is an existing business. No previous liquor license for this location.

\*d. CHRISTOPHER D. MATTA, AGENT

New Restaurant License for Matta's Mexican Grill, 1105 North Higley Road. This is an existing building. No previous liquor license for this location.

\*e. KENNETH EDWARD HIGGINBOTHAM, AGENT

New Restaurant License for Mexi-Kenny's, 2015 North Power Road. #106. This is a new business. No previous liquor license for this location.

4. Consider the following contracts:

\*a. Three-year supply contract for alkaline batteries for warehouse inventory to be used by all City departments.

The Purchasing Division recommends authorizing purchase from a cooperative bid with the City of Chandler, and awarding to the low bidder, STS-ESCO, LLC, for \$27,646.04 based on estimated annual requirements.

\*b. Two-year renewal of the supply contract for blueprinting services as requested by the Engineering Division.

The Purchasing Division recommends exercising the two-year renewal option as follows: Awarding the primary contract to Thomas Reprographics and the secondary contract to ScottBlue Reprographics for combined annual purchases estimated at \$65,000.00

\*c. Two replacement copiers as requested by the City Prosecutor's Office.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Minolta Corp. c/o Business Imaging System at \$20,240.64 including applicable sales tax.

\*d. Additional expenditure authority for the existing supply contract for office supplies and copy paper, used by all City departments.

The Purchasing Division recommends authorizing additional expenditures of \$225,000 for the existing supply contract with Office Depot, bringing the contract total to \$900,000 based on estimated annual expenditures.

\*e. Fifteen self-contained breathing apparatus as requested by the Fire Department.

The Purchasing Division recommends accepting the low bid meeting specification by Vallen Safety Supply at \$73,588.05 including applicable sales tax.

- f. Seven replacement vehicles for the Police Department. The request includes three pickups, two vans and two sedans.

The Purchasing Department recommends authorizing purchase from the following State of Arizona contracts:

Three pickups and two vans from Five Star Ford for a total of \$116,327.00;

One sedan from Ed Moses Dodge for a total of \$18,013.51;

One sedan from Midway Chevrolet for a total of \$19,168.69.

The combined total is then \$153,509.20.

Kirby Allan, 1039 East Broadway Road, addressed the Council and voiced concerns regarding current City management policy.

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

Carried unanimously.

- \*g. Transit Passenger Shelters. City of Mesa Project No. 00-25.2.

This project proposes to install bus shelters at nine locations throughout the City. This project is the second of three projects to install bus shelters (Phase 1 installed 15 shelters, and Phase 3 will install an additional 11 shelters).

Recommend award to low bidder, FST Consulting International, in the amount of \$166,637.00 plus an additional \$16,663.70 (10% allowance for change orders) for a total award of \$183,300.70.

5. Consider the following resolutions:

- \*a. Deleted.
- \*b. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Crismon and Baseline L.L.C. and the City of Mesa for the development of a residential subdivision known as Villages of Eastridge – Resolution No. 7929.
- \*c. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Power and McKellips Retail, L.L.C. and the City of Mesa for the development of McKellips Market Place which is located at 1829 North Power Road – Resolution No. 7930.
- \*d. Approving and authorizing the City Manager to execute an agreement between the Central Arizona Water Conservation District (CAWCD) and the City of Mesa to renew a contract for incentive recharge water – Resolution No. 7931.

- e. Approving and authorizing the City Manager to execute an agreement between the Maricopa County Department of Transportation and the City of Mesa for the acquisition of right-of-way for Val Vista Drive from Thomas Road to the South Canal – Resolution No. 7932.

Assistant Development Services Manager Jeff Martin provided the Council with a brief overview of this agenda item.

Councilmember Walters stated that this agenda item was removed from the consent agenda at her request so that staff could provide Mesa residents with a short synopsis relative to the successful completion of the Intergovernmental Agreement between the City and Maricopa County. She stated that although the location of the roadway section within the County's jurisdiction has made the ongoing negotiations somewhat challenging, she acknowledged Don Stapley, Chairman of the County Board of Supervisors, for his good faith efforts to work with the City of Mesa regarding this matter.

It was moved by Councilmember Walters, seconded by Councilmember Griswold, that Resolution No. 7932 be adopted.

Carried unanimously.

- f. Approving and authorizing the City Manager or his designated representative to execute a Development Agreement between the City of Mesa and Sunshine Acres, Inc. – Resolution No. 7933.

City Manager Mike Hutchinson provided the Council with a brief overview of this agenda item.

Councilmember Griswold expressed appreciation to staff and Ralph Pew, attorney for Sunshine Acres, for their efforts and hard work that resulted in a successfully negotiated Development Agreement that will effectively serve the needs of the City of Mesa and Sunshine Acres.

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that Resolution No. 7933 be adopted.

Vice Mayor Kavanaugh thanked Mr. Hutchinson, Mr. Pew and Deputy City Attorney Joe Padilla for their efforts in this regard and commented that the Development Agreement is an example of how City government is responsive to the needs and concerns of human services agencies within the community. He added that the City of Mesa has received unfair criticism from the media relative to this issue, and commented that it was important that staff did not respond to the criticism with a quick and simple solution, but rather took the time to draft a document that is beneficial to the City, Sunshine Acres and the Longbow Business Park.

Mayor Hawker expressed support for the motion and thanked Mr. Pew for facilitating the negotiations between staff and Sunshine Acres' Board of Directors. He also acknowledged Bob McNichols, Managing Partner of Longbow Business Park and Golf Course, for his patience during the negotiation process, as well as the assistance given by the Boeing Corporation to expedite the matter.

Councilmember Walters concurred with Mayor Hawker's comments.

Carried unanimously.

6. Consider the following ordinances:

- a. Modifying the current ordinance regarding construction start times for the months of May through September from 4:00 a.m. to 5:00 a.m. as recommended by the General Development Committee – Ordinance No. 4028.

Councilmember Thom reported that this issue was first presented to the Council as a result of complaints from citizens this past summer regarding excessive amounts of construction noise in the early morning hours in residential neighborhoods. She stated the opinion that although the City of Mesa is attempting to project a "business friendly" attitude to the development community, the proposed ordinance represents undue regulations that the construction companies should not be required to comply with. Councilmember Thom commented that permits may be granted to companies if there is a need to start a project earlier than the proposed 5:00 a.m. start time (such as special concrete pourings), but she questioned the necessity of restricting the start times for companies that are working in remote areas of the City that are far away from residential neighborhoods. She also briefly discussed the intersection widening at Gilbert and Baseline Roads and the impacts on businesses in that area. Councilmember Thom concluded her remarks by expressing opposition to the ordinance and adding that the City should not "throw roadblocks" in the way of businesses or construction companies trying to complete their work.

In response to a series of questions from Mayor Hawker, Development Services Manager Jack Friedline clarified that Building Safety staff conducted a survey at the Development Advisory Forum this past summer relative to an acceptable construction start time, particularly in areas close to residential neighborhoods, and commented that the respondents indicated that a 5:00 a.m. start time would be acceptable; that per the ordinance, the City could issue a permit to a company that would allow employees to work at night to expedite the completion of a project, and that staff will attempt to notify and educate the development community, as well as Mesa residents, relative to the modified construction start times.

Councilmember Griswold agreed with the importance of public notification and stated that for the most part, people are willing to go along with the work as long as they receive the notification and are aware of schedules and deadlines.

Vice Mayor Kavanaugh, Chairman of the General Development Committee, stated that this issue first came to the attention of the City this past summer when he received a complaint from a resident in his district regarding excessive noise in the neighborhood and had requested the City's assistance to resolve this issue. He advised that staff subsequently conducted a survey of other Valley cities' construction start times in comparison to Mesa's, and a determination was made that Mesa's start times were the earliest of all the cities with a construction noise ordinance. Vice Mayor Kavanaugh stated that staff also met with the development community to obtain their input prior to drafting the ordinance. He concluded his remarks by stating that this situation illustrates the fact that an individual citizen can make a difference by raising an issue of concern, which leads to modifications in the City Code, and thereby affects the quality of life for all Mesa residents.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that Ordinance No. 4028 be adopted.

Councilmember Whalen voiced support for the motion.

Discussion ensued relative to the City's noise ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4028 adopted.

7. Consider the following subdivision plats:

- \*a. "RE-PLAT OF SUN GARDENS", - (Council District 1) – 860 East Brown Road (north side) 20 R-4 PAD four-plex lots (4.98 acres) Continental Realty Fund XI, LLC, owner; Rosendahl & Associates, Inc., engineer.

8. Items from citizens present.

Mr. Kirby Allan expressed additional concerns regarding the City's management policy.

9. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:35 p.m.

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KENO HAWKER, MAYOR

ATTEST:

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BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 2<sup>nd</sup> day of December 2002. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK