

COUNCIL MINUTES

May 16, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 16, 2005 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones
Debbie Spinner

Invocation by Mayor Hawker.

Pledge of Allegiance was led by Andrew Jackson, Boy Scout Troop # 557.

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.

Presentation of 2005 Historic Preservation Awards.

David Dean, Chairman of the Historic Preservation Committee, with the assistance of Councilmember Jones, presented the selected recipients with their 2005 Historic Preservation Awards.

1. Consider all consent agenda items.

Vice Mayor Walters corrected the reading of agenda item 7q by stating that it is a resolution ordering the sale of \$91,200,000 principal amount of City of Mesa Utility Systems Revenue Bonds.

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

Carried unanimously.

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

Minutes from the March 17, April 14, 21, 28 and May 2, 2005 Council meetings.

3. Conduct a public hearing on the Mesa Town Center Improvement District No. 228 annual assessments.

This District provides enhanced municipal services for the Town Center.

Mayor Hawker and Councilmember Whalen declared potential conflicts of interest and said they would refrain from discussion/participation in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

Vice Mayor Walters announced that this is the time and place for a public hearing regarding the Mesa Town Center Improvement District No. 228 annual assessments.

Paul McKee, 133 West 1st Avenue, President of the Mesa Town Center Corporation (MTCC), expressed appreciation for the MTCC's ongoing partnership with the City of Mesa. He reported that his office received one written protest relative to the annual assessments, as well as one revision, which includes the deletion of a \$374 assessment on 217 North Morris Street. Mr. McKee explained that the property was recently converted from a law office to a residence and cannot be assessed under State law. He added that with this modification, the Mesa Town Center Improvement District's annual assessment would be a total of \$248,089.

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

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

4. Consider the following liquor license applications:

*4a. CHRISTOPHER MATTHEW CARPENTER, PASTOR

Special Event License application for Christopher Matthew Carpenter, Pastor, Christ the King Catholic Church, a two-day religious event to be held on Friday, May 20, 2005, from 5:00 p.m. to 8:00 p.m. and Saturday, May 21, 2005, from 11:00 a.m. to 2:00 p.m. at 1551 E. Dana Avenue. District #4.

*4b. DANIEL ROBERT CAREY, INDIVIDUAL

New Wholesale License for High Altitude Performance, 258 E. 10th Drive, Suite 101. This is an existing building. No current license at this location. District #4.

*4c. THOR OTTO SKOGAN, JR., AGENT

Person Transfer Beer & Wine Bar License for Main Street Billiards, 1749 W. Main Street, Suite 11. This is a person transfer from John Harry Deshetler, Owner, Main Street

Billiards, 1749 W. Main Street, Suite #11. This license will transfer to the applicant. District #3.

*4d. RANDY D. NATIONS, AGENT

New Restaurant License for BJ's Restaurant & Brewery, 6622 E. Superstition Springs Blvd. This is new construction. No previous liquor licenses at this location. District #6.

*4e. RANDY D. NATIONS, AGENT

New Restaurant License for Outback Steakhouse 0314, 1650 S. Clearview. This is an existing business. The Restaurant License previously held at this location by Randy D. Nations, Agent, Outback Phoenix LP #2, will revert back to the State. District #6.

*4f. CHARLES F. DEVLIN, INDIVIDUAL

New Restaurant License for String Chemistry Café Blues Jazz & Other Good Things, 2655 W. Guadalupe Road, Suite 17. This is an existing building. The Restaurant License previously held at this location by Ronald D. Lancaster, Agent, Storyteller Café, LLC, was cancelled on 08/05/03 due to non-renewal of license. District #3.

*4g. H. J. LEWKOWITZ, AGENT

New Restaurant License for Tutti Santi Restorante by Nina, 1859 W. Guadalupe Road, Suite 101. This is an existing business. The Restaurant License previously held at this location by H. J. Lewkowitz, Agent, Tutti Santi III, LLC, will revert back to the State. District #3.

5. Consider the following contracts:

*5a. Three-year supply contract for Automotive Hydraulic Hose and Fittings as requested by Fleet Support Services. (Contract 2005127)

The Purchasing Division recommends accepting the low bid by Kaman Industrial Technologies at \$46,962.10, based on estimated annual requirements.

*5b. Computer Servers for Advanced Traffic Management System as requested by the Development Services Department Transportation Division. (Contract 2005131)

The Purchasing Division recommends accepting the bid submitted by Econolite Control Products, Inc. at \$53,833.05, including applicable taxes. (Sole Source).

*5c. Dollar limit increase to the contract for a new Citywide Telecommunications System, as requested by the Information Services Division. (Contract 2002201)

The Purchasing Division recommends authorizing an additional \$56,432.86 for equipment to be purchased under the contract with Norstan Communications increasing the dollar limit to \$3,609,635.83.

- 5d. High Pressure Gas Main Extension, 80th Street and University Drive to Central Arizona Project Water Treatment Plant; and District Regulator Station, East McLellan Road and North Ellsworth Road, City of Mesa Project No. 02-12.1.

This project will extend a high-pressure gas main to provide service to the Central Arizona Project (CAP) Water Treatment Plant for on-site generators and to complete a portion of the gas distribution system in the area of 80th Street and University Drive.

This project will also include the construction of a regulator station that will improve service to the northeast portion of the City's gas distribution system.

Recommend award to low bidder Mastec North America, in the amount of \$587,542.59 plus an additional \$58,754.26 (10% allowance for change orders) for a total award of \$646,296.85.

Mayor Hawker declared potential conflicts of interest on agenda items 5d, 5e and 5g and said he would refrain from discussion/participation in these items. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

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

Upon tabulation of votes, it showed:

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

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

- 5e. Apache Wells Water and Gas Replacement Project-Phase 1, City of Mesa Project No. 01-607-001.

This project will upgrade the water and gas systems in Apache Wells to provide better service and improve fire protection for the customers in the area.

Recommend award to the Construction Manager at Risk, Achen Gardner Engineering, LLC., in the amount of \$4,979,801.44 plus an additional \$250,000.00 (5% allowance for change orders) for a total award of \$5,229,801.44.

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

Upon tabulation of votes, it showed:

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

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

- *5f. Additional Purchase of One Heavy-Duty Rescue Vehicle as requested by the Fire Department. This vehicle is an addition to the fleet. (Contract 2004164)

The Purchasing Division recommends authorizing an additional purchase option with the original bidder, Pierce Manufacturing, Inc., at \$541,720.45, including options and applicable sales tax. (100% Grant Funded)

- 5g. North-South Downtown Pedestrian Path, Phase 1 – Main Street to 1st Street, City of Mesa Project No. 01-235-001.

This project will create a more pedestrian friendly environment, add new landscaping, and improve lighting and directional signage. The new pedestrian path will provide improved connectivity between the various parking facilities and the Mesa Arts Center.

Recommend award to low bidder Visus, Inc., in the amount of \$561,742.00 plus an additional \$56,174.20 (10% allowance for change orders) for a total award of \$617,916.20.

Vice Mayor Walters stated that at the Study Session earlier this afternoon, City Manager Mike Hutchinson had suggested that the Council consider an alternative with regard to this contract. She explained that Mr. Hutchinson recommended that the Council award only the Base Bid to the low bidder Krisdan Company, Inc., for a total cost of \$501,598.63.

In response to a series of questions from Councilmember Whalen, City Engineer Keith Nath clarified that the funding for the project is derived from grants, the General Fund and Highway User Revenue Fund (HURF) bonds. He also noted that the ultimate vision of the project is to provide a pedestrian pathway and linkage along the Lewis Street alignment that would extend from the Mesa Arts Center to the Mesa Convention Center.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that the recommendation of Mr. Hutchinson that the Council award only the Base Bid to the low bidder Krisdan Company, Inc., for a total cost of \$501,598.63, be approved.

Vice Mayor Walters expressed appreciation for the alternative bid and commented that the additional lighting along the pathway would provide greater safety to those pedestrians who use the walkway.

Upon tabulation of votes, it showed:

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

Vice Mayor Walters declared the motion carried by majority vote of those voting.

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

6. Introduction of the following ordinances and setting June 6, 2005 as the date of public hearing on these ordinances:

- *6a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

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

On the north side of Hope Street from Lindsay Road to the east leg of Hale Street (west of Lindsay Road and north of Brown Road). Council District 1.

On the east side of Parkcrest from Broadway Road to a point 222 feet south of Broadway Road (east of Greenfield Road and south of Broadway Road). Council District 1.

No Parking: 10-3-24 (F7) (No Parking between 8:00 a.m. and 5:00 p.m. Monday – Friday)

On the south side of Hackamore Street from Gilbert Road to a point 284 feet east of Gilbert Road and on the north side of Hackamore Street from Gilbert Road to a point 251 feet east of Gilbert Road (east of Gilbert Road and north of Brown Road). Council District 1.

- *6b. Modifying utility deposit fees.

- *6c. **Z05-41 (District 1)** The 1700 block of North Lindsay Road (west side). Located south of McKellips Road and west of Lindsay Road (1.07 ac). Rezone O-S to C-2 and Site Plan Modification. This request is to allow inline retail. Russ Watson, Sterling Realty Group, owner; Sean Lake, Pew & Lake, P.L.C.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

- *6d. **Z05-42 (District 1)** The 2700 block of East McKellips Road (south side). Located south of McKellips Road and west of Lindsay Road (11.92 ac). Site Plan Modification. This request is to allow Wal-Mart Neighborhood Market and inline retail. Russ Watson, Sterling Realty Group, owner; Sean Lake, Pew & Lake, P.L.C.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

- *6e. **Z05-43 (District 1)** The 800 block of South Greenfield Road (west side). Located north of Southern Avenue and west of Greenfield Road (1.8 ac). Rezone from O-S to R1-35. This request is to allow two single residential lots. Ross N. Farnsworth, owner; Tim Nielson, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

- 6f. **Z05-44 (District 6)** 14403 and 14435 South Power Road. Located south of Ray Road and east of Power Road (5± ac). District 6. Rezone from R1-43 to C-2 and M-1. This

request is to establish commercial and industrial zoning districts. Jesse & Ann Udall, Dwight & Jori Udall, owners; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0, with Boardmember Esparza absent)

Mayor Hawker stated that agenda items 6f, 6i, 6j, 6k, 6l and 6m are related cases because the parcels are all located in the County and the property owners are seeking annexation into the City in order to establish commercial/industrial zoning districts.

Williams Gateway Area of Regional Economic Activity Project Manager Wayne Balmer provided the Council with a brief update of the six cases. His comments included, but were not limited to, the following: that the annexation was introduced to the City Council on February 7, 2005 and scheduled for an adoption hearing on March 7, 2005; that the annexation adoption hearing was continued to tonight's meeting to allow staff to work with several concerned property owners regarding the future zoning of their parcels (preferring to convert residential zoned property to commercial use) and to allow the Council to consider approval of both the annexation (agenda item 10b) and the establishment of the comparable City zoning (item 11c), as well as hear the introduction of the new rezoning requests at the same time; that at their April 21, 2005 meeting, the Planning & Zoning Board recommended approval of the rezoning requests; that by Mr. Balmer listing his name as the applicant, the property owners were not responsible for the application fees in this regard; and that staff has now received annexation petitions signed by a majority of the property owners (by number and assessed valuation).

Mr. Balmer indicated that in order for the annexation to proceed tonight, the property owners are seeking "a comfort level" from the Council relative to the zoning cases proposed for introduction. He explained that because the City first has to annex the property and establish the zoning before it can change the zoning, he is suggesting that the Council approve the annexation and establish the zoning tonight, and at the June 6, 2005 Regular Council meeting, change the zoning on the various parcels. Mr. Balmer added that the property owners are interested in knowing "what would happen in the next two weeks."

Councilmember Rawles stated that he has no reason to believe there would be anything between now and the June 6, 2005 Regular Council meeting that would cause him to have an unfavorable view on items 6f, 6i, 6j, 6k, 6l and 6m. He added that he fully expects to vote in favor of the zoning applications at that time.

Mayor Hawker concurred with Councilmember Rawles comments, but suggested that the proper procedure tonight would be for the Council to separately vote on the introduction of each zoning case.

Vice Mayor Walters stated that the Council has heard from many of the property owners in the past and that it is because of their persuasive arguments that the positive negotiations between staff and the owners have occurred. She added that she cannot envision anything that would change her mind between now and June 6th.

Councilmember Griswold concurred with his fellow Councilmembers and invited anyone who objects to the zoning cases to address the Council at this time.

Rick Fowler, 2332 E. Jacaranda Street, representing Power Road Baptist Church, expressed appreciation to the City of Mesa and the property owners for the common and diverse goals it has accomplished in this regard. He added that such efforts are another step for the City in the completion of the City's General Plan and the development and enhancement of the Williams Gateway Airport project.

Paul E. Gilbert, 4800 North Scottsdale Road, Scottsdale, voiced support for the rezoning requests. He also commented that there currently are three City-owned properties located in close proximity to the other parcels and suggested that the City initiate rezoning on those sites as well. Mr. Gilbert also thanked Mr. Balmer for his hard work and dedication with regard to these projects.

Jori Udall, 14403 South Power Road, one of the property owners, voiced support for the proposed annexation and expressed appreciation to Mr. Balmer for his outstanding service. She added that she is hopeful that the ongoing process would continue to serve the interests of the property owners and the City of Mesa.

It was moved by Vice Mayor Walters, seconded by Councilmember Rawles, that Zoning Case Z05-44 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

- *6g. **Z05-45 (District 6)** The 1100 block of South Ellsworth Road (west side). Located north of Southern Avenue and west of Ellsworth Road (3.37 ac). Rezone from Maricopa County Rural 43 and C-2 to City of Mesa R1-43 and C-2. This case is to establish City zoning on recently annexed property. City of Mesa (northern parcel), Cynthia Taylor Trust (southern parcel), owners; City of Mesa Real Estate Division, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

- *6h. **Z05-46 (District 6)** The 3800 block of South Mountain Road (west side). Located south of Elliot Road and east of Signal Butte Road (14.86 ac). Rezone from Maricopa County R1-8 PD to City of Mesa PF. This case is to establish City zoning on recently annexed property. Gilbert Unified School District, owner; G. Keith Vaughan, Planning and Development Director, Gilbert Public Schools, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

- 6i. **Z05-48 (District 6)** 14207 South Power Road. Located south of Ray Road and east of Power Road (4± ac). Rezone from R1-43 to C-2. This request is to establish a commercial zoning district. John Gaines Trust ETAL (Ricky Fowler), owners; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

It was moved by Councilmember Griswold, seconded by Councilmember Rawles, that Zoning Case Z05-48 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

- 6j. **Z05-49 (District 6)** 14247 South Power Road. Located south of Ray Road and east of Power Road (2.74± ac). Rezone from R1-43 to C-2. This request is to establish a commercial zoning district. Mark L. & Vicki L. Talbot, owners; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that Zoning Case Z05-49 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

- 6k. **Z05-50 (District 6)** 14223 South Power Road. Located south of Ray Road and east of Power Road (1.3 ac). Rezone from R1-43 to C-2. This request is to establish a commercial zoning district. Southwest Auto Care, LLC (Mike Cahill), owner; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

It was moved by Councilmember Rawles, seconded by Councilmember Thom, that Zoning Case Z05-50 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

- 6l. **Z05-51 (District 6)** 14215 South Power Road. Located south of Ray Road and east of Power Road (0.78 ac). Rezone from R1-43 to C-2. This request is to establish a commercial zoning district. Joseph Kestner, owner; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

It was moved by Councilmember Griswold, seconded by Vice Mayor Walters, that Zoning Case Z05-51 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

- 6m. **Z05-52 (District 6)** The 14000 block of South Power Road. Located at the southeast corner of Ray Road and Power Road (4± ac). Rezone from R1-43 to C-2. This request is to establish a commercial zoning district. Robert & Julie Galvin, owners; Wayne Balmer, City of Mesa, applicant.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Esparza absent)

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that Zoning Case Z05-52 be introduced and that June 6, 2005 be set as the date for public hearing.

Carried unanimously.

7. Consider the following resolutions:

- 7a. Approving the final assessments for the Mesa Town Center Improvement District No. 228 – Resolution No. 8483.

This district provides enhanced municipal services for the Mesa Town Center.

Mayor Hawker and Councilmember Whalen declared potential conflicts of interest and said they would refrain from discussion/participation in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Jones, seconded by Councilmember Griswold, that Resolution No. 8483 be adopted.

Upon tabulation of votes, it showed:

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

Vice Mayor Walters declared the motion carried unanimously by those voting and Resolution No. 8483 adopted.

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

- *7b. Authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Lindsay Park Townhomes, LLC, an Arizona Limited Liability Company, and the City of Mesa for the reimbursement of regional offsite improvements that are being required by Mesa, in conjunction with the proposed development of Lindsay Park Townhomes, which is located at 2565 East Southern Avenue – Resolution No. 8465.
- *7c. Authorizing the City Manager to amend an Intergovernmental Agreement between the Arizona Department of Economic Security (DES) for State and Federal Community Action Program funds for FY 2004-2005 – Resolution No. 8466.
- *7d. Extinguishing a portion of an easement for highway purposes located on Thomas Road, east of Higley Road and north of the Red Mountain Freeway – Resolution No. 8467.
- This easement is no longer required.
- *7e. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Pima County Sheriff's Department to fund overtime costs for an officer assigned to a joint drug task force – Resolution No. 8468.
- *7f. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Oversight Council on DUI Abatement to pay for equipment for testing of

blood alcohol levels in suspected impaired drivers in Mesa. The amount of the grant funding is \$68,000 – Resolution No. 8469.

- *7g. Modifying the Housing fees – Resolution No. 8470.
- *7h. Modifying the Engineering Services fees – Resolution No. 8471.
- *7i. Modifying the Transportation Division fees – Resolution No. 8472.
- *7j. Modifying the Airport fees – Resolution No. 8473.
- *7k. Modifying parking fees – Resolution No. 8474.
- *7l. Extinguishing a portion of a Public Utility Easement located at 1746 East Grandview Street – Resolution No. 8475.

This portion of the easement is not necessary and is in the footprint area of a new workshop.
- *7m. Extinguishing a Temporary Retention Easement near the southwest corner of Higley Road and McKellips Road – Resolution No. 8476.

This easement is no longer necessary as a new retention area has been redesigned under the new plat at “Higley-McKellips Business Center.”
- *7n. Modifying Fire Department Fees – Resolution No. 8477.
- *7o. Authorizing the City Manager to execute an agreement between the City of Mesa and Maricopa County Animal Care and Control for after-hours kennel service – Resolution No. 8478.
- *7p. Authorizing the sale of City property to M & F Property Holdings, LLC – Resolution No. 8479.

This is excess City-owned property located at 9197 East Florian Avenue (the southwest corner of Florian Avenue and Ellsworth Road).
- *7q. Ordering the sale of \$91,200,000 principal amount of City of Mesa Utility Systems Revenue Bonds, Series 2005; and authorizing the reimbursement from bond proceeds of certain advances on utility construction projects – Resolution No. 8480.
- *7r. Ordering the sale of \$11,705,000 principal amount of City of Mesa General Obligation Bonds, Series 2005; and authorizing the reimbursement from bond proceeds of certain advances on construction projects – Resolution No. 8481.
- *7s. Ordering the sale of \$10,225,000 principal amount of City of Mesa Street and Highway User Revenue Bonds, Series 2005; and authorizing the reimbursement from bond proceeds of certain advances on construction projects – Resolution No. 8482.

- *8. Consider an ordinance amending Section 10-5-1 of the Mesa City Code by adding 10-5-1(J) relating to the ability to charge for event parking – Ordinance No. 4394.
- *9. Consider adopting a Notice of Intention to increase rates or rate components, fees and/or service charges for irrigation water, natural gas, solid waste, wastewater, and water and establishing June 20, 2005 as the date for the public hearing.
10. Consider the following ordinances:

*10a. Amending Section 11-13-2 of the Mesa City Code by adding 11-13-2 (V) relating to temporary parking lots – Ordinance No. 4395.

10b. **A04-04 (District 6)** Annexing the east side of Power Road between Ray and Williams Field Road. (67.7± acres). Initiated by the property owners. **CONTINUED FROM THE FEBRUARY 22 AND MARCH 7, 2005 CITY COUNCIL MEETINGS** – Ordinance No. 4398.

Dwight Udall, 14403 South Power Road, one of the listed property owners, concurred with his wife's comments stated under item 6f. He also expressed appreciation to the Council for their consideration in regard to this matter.

Greg Linaman, 2525 E. Arizona Biltmore Circle, Suite A-212, Phoenix, an attorney representing Quik Trip, expressed support for the annexation. He stated that Quik Trip has expressed an interest in future development within the annexation area, and noted that it is imperative that the annexation proceed in order to allow Quik Trip to develop its project under Mesa's zoning and building standards.

It was moved by Councilmember Griswold, seconded by Councilmember Rawles, that Ordinance No. 4398 be adopted.

Councilmember Rawles stated that given the fact that more than a majority of the property owners in the area support the annexation, he would vote in favor of the motion. He commented that the annexation would be a "win-win" situation for all concerned and voiced appreciation to staff and the property owners for reaching a successful resolution of this matter.

Vice Mayor Walters thanked Mr. Balmer for his expertise and hard work and also acknowledged the property owners for their patience during this long process.

Discussion ensued relative to the potential annexation of three City-owned properties adjacent to the proposed annexation area and the possibility of rezoning those parcels to commercial or industrial designations.

Councilmembers Whalen and Thom expressed support for the motion.

Mayor Hawker called for the vote.

Carried unanimously.

- *10c. **A04-15 (District 5)** Annexing the location west and north of the NWC of Main and Power Roads. Initiated by Associated Asset Management Company, the property management company for the Desert Cove subdivision – Ordinance No. 4396.
- *10d. **A04-16 (District 5)** Annexing the location west and north of the NWC of Main and Power Road. Initiated by Associated Asset Management Company, the property management company for the Apache Cove subdivision – Ordinance No. 4397.

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

- 11a. **Z03-64 (District 3)** Northwest corner of Sycamore and Main Street (14.46 ac.). Rezone from C-2 and C-3 to C-2 BIZ and C-3 BIZ and Site Plan Modification. This request is for the development of a bus/light rail transfer lot and park-and-ride facility to serve the Mesa light rail station and to reserve a site for future Transit Oriented Development (TOD). Judith A. Klein, Rising Sun, LLC., owner; Jeff Martin, City of Mesa, applicant. **CONTINUED FROM THE MAY 3, 2004, MAY 17, 2004, JUNE 7, 2004, JULY 6, 2004, AUGUST 16, 2004, SEPTEMBER 7, 2004, OCTOBER 4, 2004, DECEMBER 6, 2004, FEBRUARY 7, 2005, MARCH 7, 2005 AND APRIL 4, 2005 CITY COUNCIL MEETINGS. THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE JULY 5, 2005 CITY COUNCIL MEETING.**

P&Z Recommendation: Approval with conditions (Vote: Passed 6-0, Saemisch abstaining).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted.
2. All street improvements and perimeter landscaping to be installed in the first phase of construction.
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. Compliance with all City development codes and regulations.
5. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
6. Compliance with all requirements of the Design Review Board.
7. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
8. Transit oriented development is encouraged for the 3.67-acre lot.

Vice Mayor Walters declared a potential conflict of interest and said she would refrain from discussion/participation in this item.

It was moved by Councilmember Griswold, seconded by Mayor Hawker, that Zoning Case Z03-64 be continued to the July 5, 2005 Regular Council meeting.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- 11b. **Z05-23 (District 4)** 851 E. Main Street. Located south and west of Main Street and Stapley Road (1± ac.). Council Use Permit. This request is to allow a day labor business. Ron Walters, owner; David Naja (Able Body Labor), applicant – Ordinance No. 4399.

P&Z Recommendation: Denial. (Vote: Passed 6-1, Boardmember Carpenter voting nay)

1. Compliance with the operational standards and procedures as described in the project narrative dated November 9, 2004.
2. Maintenance of the property free from garbage, junk, trash and debris. The property shall also be maintained in compliance with Section 8-6-3 of the Mesa City Code.
3. All parking and loading associated with Able Body Labor shall be located only on parcel 138-18-036, also known as 851 E. Main Street. There shall be no parking or loading from the adjacent street or surrounding properties.
4. Employees, customers and clients of Able Body Labor shall not congregate or loiter outside of the premises including, but not limited to, Able Body Labor's parking lot, the public sidewalk, public right-of-way and adjacent properties.
5. This Council Use Permit may be suspended, revoked or modified at any time by the City Council upon a finding at a public hearing that any condition, stipulation or term of the approval of this CUP or any provision of the Mesa City Code has been violated.
6. Review of the program and operations of Able Body Labor by the City Council within one year from the effective date of the Ordinance.

David Naja, the applicant for Able Body Labor, indicated that he had previously addressed the Council regarding this case and had no additional comments to make at this time. He stated, however, that he would respond to any questions the Council may have.

Mayor Hawker stated that Alice Ford, 258 N. Horne, submitted a speaker card indicating her opposition to the case, but did not wish to address the Council.

Planning Director John Wesley provided the Council with a brief overview of this item. He reported that in response to input from the Council at previous meetings, staff has included additional zoning stipulations to address issues such as parking, garbage and trash pickup and loitering on the business premises.

Councilmember Griswold suggested the placement of a bench and a canopy in the parking lot at the back of the business to provide shade for the workers who are waiting to be transported by bus to various jobsites. He also noted that if the applicant does not abide by the zoning stipulations, the Council has the ability to suspend or revoke the Council Use Permit at any time.

Vice Mayor Walters voiced opposition to the case. She commented that some of the neighbors in the area heard the stipulations and subsequently became supportive of the business. She noted, however, that what was happening was the applicant was already not following the stipulations he had agreed to. Vice Mayor Walters also stated that although it is her understanding that situation may have changed, she still has concerns since there was such a clear understanding of what she thought needed to take place. She added that for those reasons, she cannot support this case.

Councilmember Thom expressed support for the zoning case and stated that she would like to give Able Body Labor an opportunity to become a successful and viable business in the City of Mesa.

It was moved by Councilmember Rawles, seconded by Councilmember Thom, that Zoning Case No. Z05-23 be approved and Ordinance No. 4399 adopted.

Councilmember Jones concurred with Vice Mayor Walters' comments. He explained that although he initially felt comfortable with proceeding with the zoning request, after receiving input from residents in the area, he has reconsidered his position and is of the opinion that it is the wrong location for a day labor business.

Councilmember Whalen voiced similar concerns as Vice Mayor Walters and Councilmember Jones and expressed opposition to the motion.

Mayor Hawker expressed support for the motion. He stated the opinion that the business is a lawful use and said he appreciates the fact that staff has included additional zoning stipulations to address various concerns expressed by the Council.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4399 adopted.

11c. **Z05-29 (District 6)** The 14000 to 15000 block of South Power Road (east side). Located south of Ray Road and east of Power Road (67.7 ac.). Rezone from Maricopa County Rural-43 PD, C-2 CUPD, C-2 PD and IND-2 IUPD to City of Mesa R1-43, C-2 and M-1. This case involves the establishment of City zoning on recently annexed property. Various owners; City of Mesa, applicant – Ordinance No. 4400.

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

1. Compliance with the County Zoning Case #Z2004034, which includes a site plan entitled "PRECISE / CONCEPT SITE PLAN BUYDIRECT / QT COMPLEX" and all of the conditions of approval.
2. Compliance with the County Zoning Case #Z2002128, which includes a site plan entitled "T-J RANCH" and all of the conditions of approval.

3. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of any other future development plans.
4. Compliance with all City development codes and regulations.

It was moved by Councilmember Rawles, seconded by Councilmember Griswold, that Ordinance No. 4400 be adopted.

Carried unanimously.

12. Consider the following subdivision plats:

- *12a. "MESA FAMILY MEDICAL CONDOMINIUMS" (District 1) – 1300 block of East McKellips Road (south side) located south and east of McKellips Road and Stapley Drive. 3 C-1 PAD office condominium units (1.84 ac) Dobrusin Investments, LLC, Richard Dobrusin, owner; JMA Engineering Corporation, engineer.
- *12b. "SUPERSTITION SPRING RETAIL, A CONDOMINIUM" (District 6) – 6600 block of East Baseline Road (north side) located north and west of Baseline Road and Power Road. 10 O-S PAD retail units (1.179 ac) The Village at Superstition Springs Office Investors, LLC, Steve Bauer, Managing Member, owner; Survey Innovation Group, Inc., engineer.
- *12c. "VILLAGE AT SUPERSTITION SPRING, A CONDOMINIUM" (District 6) – 6600 block of East Baseline Road (north side) located north and west of Baseline Road and Power Road. 36 O-S PAD office condominium units (5.70 ac) The Village at Superstition Springs Office Investors, LLC, Steve Bauer, Managing Member, owner; Survey Innovation Group, Inc., engineer.

13. Items from citizens present.

There were no items from citizens present.

14. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:00 p.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 16th day of May 2005. 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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