



3. Consider the following liquor license applications:

h. CORY M. WATTERBERG, AGENT

New Restaurant License for Arizona's Mongolian Grill, 2662 E. University Drive, #102.  
This is an existing building, no previous liquor licenses at this location.

Tax and Licensing Administrator Don Ayers responded to questions from Councilmember Pomeroy and stated that until the applicant responds to a request for inspection, staff recommends denial. Mr. Ayers informed the Council that staff's attempts to reach the applicant and gain access to the premises have been unsuccessful.

4. Consider the following contracts:

\*e. CAP Canal Sewer Extension Phase II, City of Mesa Project No. 97-14.1.

In response to a question from Councilmember Jaffa, City Attorney Neal Beets recommended that Councilmember Jaffa declare a conflict of interest relative to this agenda item.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

Mayor Brown stated that this item will be removed from the Consent Agenda.

\*f. Baseline and Price Roads Odor Control, Immediate Improvements.  
City Of Mesa Project 98-83.

This project is the first phase of a two-phase project to provide access and odor control to a sewer meter structure located on Baseline Road at the Price Freeway.

Recommend award to low bidder, RDH Environmental Services, in the amount of \$160,139.00.

Councilmember Kavanaugh expressed appreciation to staff for their efforts on this matter and commented on their project.

Mayor Brown concurred with Councilmember Kavanaugh's comments and requested that Councilmember Kavanaugh provide input on this agenda item at the Regular Council Meeting. Mayor Brown advised that this item will be removed from the Consent Agenda.

Transportation Director Ron Krosting provided background information regarding Phase I and II of this project and responded to questions from Councilmember Hawker concerning the Arizona Department of Transportation's (ADOT's) liability with respect to this project's new location under the freeway. Mr. Krosting stated that ADOT has agreed to participate financially in the project.

5. Introduction of the following ordinances and setting August 30, 1999, as the date of a public hearing on these ordinances:

- \*a. **A99-1** – Annexing the 8800 through 9000 blocks of Broadway Road (north and south).

Community Development Manager Wayne Balmer responded to questions from Councilmember Jaffa pertaining to development of the two subdivisions. Mr. Balmer noted that signatures from two-thirds of the homeowners in both subdivisions had been obtained and reported that the neighbors support the annexation. Mr. Balmer commented that this item is the last significantly populated annexation the City will implement prior to the 2000 census.

6. Consider the following resolutions:

- \*a. Establishing a City policy addressing the reclassification of real and personal property tax under a Foreign Trade Zone designation.

In response to a request from Councilmember Jaffa, Mr. Beets stated the opinion that Councilmember Jaffa may have a potential conflict of interest regarding this agenda item and should declare same.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting, and that because of such conflict he would refrain from discussing and/or participating in any manner in connection with same.

Mayor Brown advised that this item will be removed from the Consent Agenda.

7. Consider resolutions and ordinances modifying rate schedules for the following utility services:

- \*a. Water and irrigation.

- \*b. Wastewater.

- \*c. Gas.

In response to comments from Vice Mayor Giles, Mayor Brown stated that Item 7\*a, \*b and \*c will be removed from the Consent Agenda to allow input relative to these issues.

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

- \*a. **Z99-31** Parcel 6B of Red Mountain Ranch. Rezone from R1-9-DMP and Site Plan Review (6.9+/- acres). This case involves the development of a single residence subdivision. Ray Mehan, owner; Ralph Pew, applicant.

In response to a question from Councilmember Hawker concerning Stipulation No. 9 and noise reduction levels, Mr. Balmer advised that the City established noise standards through the Maricopa Association of Governments (MAG). Mr. Balmer added that by employing specific construction techniques, noise standards are more likely to be met.

Mr. Balmer reported that in connection with the above listed case, the neighbors and Council were provided a revised letter concerning the agreement that was attained at the Planning & Zoning Board's June 17, 1999 meeting. Mr. Balmer noted that a copy of the letter was placed in the file and sent to the

neighbors. Mr. Balmer stated the opinion that the Planning and Zoning Board would recommend this case for approval. Mr. Balmer added that all of the parties in this case affirmed the conditions of this agreement.

Councilmember Jaffa commented on the difficulties surrounding this case and expressed appreciation to the neighbors and the developer for their efforts to achieve an acceptable resolution.

- \*m. **Z99-62** Parcel J at Las Sendas Mountain. Rezone from R1-90-DMP to R1-9-PAD-DMP (44.5 acres). This case involves development of a 40 lot subdivision. Sonoron Desert Holding, L.L.C., Agent for Owner; Represented by: Jeff Blandford, Manager; Robert Proehl applicant.

Councilmember Jaffa responded to questions from Mayor Brown pertaining to the above item. Mayor Brown advised that Item 11\*m (Las Sendas) will precede Item 11\*c at the Council meeting.

Mr. Mizner commented that the Las Sendas cases represent a significant amount of work, compromise and cooperation among the property owners and the developers in northeast Mesa.

- \*c. **Z99-55** The southwest corner of McKellips Road and 48<sup>th</sup> Street. Requesting a Council Use Permit (33+/- acres). This case involves the development of a Super Wal-Mart. Mary Habeeb, owner; Ron Jarvis; applicant.

Mr. Balmer provided a brief overview of two letters distributed to Council concerning the above case: 1) a letter from Whitby and Tobin, representing Talley Defense Systems, Inc. ("Talley"), and 2) a letter from Gallagher & Kennedy representing Wal-Mart.

Mr. Balmer stated that Talley has agreed to the proposed abandonment of 46<sup>th</sup> Street, south of Mc Kellips Road subject to the following provisions: (1) the City of Mesa is to construct a curb-cut and new driveway for the Talley Plant No. 1 facility on Jensen Road to be located between the existing City of Mesa well site and Talley's eastern most warehouse; (2) Wal-Mart will be responsible for providing access to the City of Mesa for its well site; and (3) Talley will complete an agreement with Wal-Mart regarding the future use and ownership of the to-be-abandoned 46<sup>th</sup> Street right-of-way.

Mr. Balmer reported that Wal-Mart has agreed to the following enhancements to Falcon Field: 1) the two outlots shown on the site plan, fronting on McKellips Road, will not be developed as drive-thru restaurants; 2) it is the intent of Wal-Mart to seek higher-end restaurant users for the McKellips Road outlots (office users, banks, or other similar quality users may be sought as well); and 3) although the landscaping depicted on the current site plan meets and exceeds City requirements, Wal-Mart agrees to increase the number of tree diamonds in the parking lot from 19 to 38 total tree diamonds.

- \*o. **Z99-67** The southeast corner of Southern Avenue and Clearview. Rezone from AG (conceptual P.E.P. and M-1)-DMP to P.E.P. and M-1 with a DMP overlay and a Council Use Permit.

Mr. Mizner responded to questions from Councilmember Jaffa pertaining to landscaping and setbacks above the minimum requirements on this case. Mr. Mizner advised that this is the first of a mixed-use project including office, commercial, industrial and warehouse facilities. Mr. Mizner informed the Council that particular emphasis was being placed on the street frontage.

2. Discuss and consider amendments to the Development Agreement for Site 21 (the Voit Building).

Community Development Manager Wayne Balmer reported that Council had been provided a report containing an amendment to Voit Development Company's Disposition and Development Agreement. Mr. Balmer stated that staff and the Voit Development Company have examined the various issues and advised that the proposed amendments to the Development Agreement for Site 21 are recommended to the Council for approval. Mr. Balmer informed the Council that Voit Development Company concurs with the changes discussed in Amendment No. 1 of the Development Agreement and added that all of these changes have been incorporated into the document.

Mr. Balmer advised that the Voit Development Company has expressed reservations regarding the placement of a restaurant or retail store on the first floor but added that Voit has stated that the company will make a "good faith" effort to attain this goal. Mr. Balmer added that Voit will return to Council if they are unsuccessful in this matter.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that the recommended amendments to the Development Agreement for Site 21 (the Voit Building) be approved.

Upon a tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh-Pomeroy  
NAYS - None  
ABSENT - Davidson

Mayor Brown declared the motion carried unanimously by those present.

In response to a question from Councilmember Jaffa, Mr. Balmer confirmed that a conditional letter of the financing commitment has been received.

Mayor Brown thanked staff for their input.

3. Discuss and consider proposed developments on State trust lands in southeast Mesa.

Planning Director Frank Mizner discussed applications received by staff from the State Land Department requesting comments regarding the disposal of State properties in southeast Mesa at Baseline and Crismon (Site I) and at Pecos and Meridian (Site II).

Mr. Mizner informed the Council that Site I represents the balance (approximately 540 acres) of the section of land bordered by Baseline, Signal Butte, Guadalupe and Crismon Roads. Mr. Mizner stated that the application excludes the 110 acres being sought by the Gilbert School District. Mr. Mizner explained that the City may be interested in acquiring a significant portion of the property for public purposes based on the possibility of a Spring 2000 bond election issue to provide funding.

Mr. Mizner stated that staff's recommendation is to submit a letter of opposition to the current U.S. Home application, and to also submit a competing application for purchase by the City. Mr. Mizner commented that the property will be held in abeyance and that the City would be allowed to pursue the bond issue and possible amendment of the General Plan land use map from current residential to public purposes.

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

Upon a tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh-Pomeroy  
NAYS - None  
ABSENT - Davidson

Mayor Brown declared the motion carried unanimously by those present.

Mr. Mizner responded to questions from Councilmember Hawker pertaining to the financing and the location of the land. Mr. Mizner stated that it was his understanding that the City would also apply for the balance of the southern half, approximately 210 acres on the southern half of the property.

In response to a request from Councilmember Hawker, Assistant City Manager Mike Hutchinson clarified that a detailed master plan has not yet been developed but added that several conceptual ideas had been formulated, such as a golf course, branch library site or other public facilities. Mr. Hutchinson added that discussion has also occurred regarding the development of a large scale park for use by the residents in that area. Mr. Hutchinson advised that it was staff's recommendation to advise the State that the City of Mesa is interested in the property and emphasized the importance of accurately describing the lengthy process that will be followed in order to obtain the necessary funding. Mr. Hutchinson added that it may take several years to complete this process.

Councilmember Jaffa indicated his support for this item.

Mr. Mizner informed the Council that Site II (located further to the south and not within the Mesa City limits or City planning area) consists of approximately 400 acres located across Meridian Road, the dividing line between Pinal and Maricopa Counties. Mr. Mizner stated that the State Land Department has received a proposal from Pinal County indicating their desire to acquire this land for a regional landfill. Mr. Mizner said that this issue is being presented to Council for direction as to whether staff should continue to support this location. Mr. Mizner reported that this application has been referred to the Queen Creek Council.

In response to a question from Councilmember Hawker, Mr. Mizner responded to questions concerning transportation corridors which Mesa would use to access this landfill.

Mayor Brown suggested endorsing the exploration of this agenda item and concurred with Councilmember Hawker relative to his previous comments regarding the importance of agreeing with the City of Queen Creek's recommendations relative to this matter.

Vice Mayor Giles expressed concern regarding the lack of safeguards that exist. Vice Mayor Giles expressed concern that the City may "sign off" on State land that may be used for a landfill and then at a later date the City may be charged excessive rates to use the landfill and/or be subject to restricted use of the facility.

Public Works Director Jack Friedline commented that staff has already indicated to the County that the City of Mesa has a contractual commitment until the year of 2008 to utilize the Salt River landfill. Mr. Friedline stated the opinion that this proposed development is an excellent opportunity for long-term solid waste disposal planning for the City of Mesa.

Councilmember Jaffa commented on the importance of Queen Creek's input and the input of residents in this area and stated that he was in favor of cautiously pursuing this matter. Mr. Mizner emphasized that landfill proposals will be the subject of extensive, in-depth public hearings and analysis.

Mayor Brown stated the opinion that whether this landfill is privately or publicly operated, the owner will request the City of Mesa's involvement in the project.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that staff's recommendations regarding Site II be approved.

Upon a tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh-Pomeroy  
NAYS - None  
ABSENT - Davidson

Mayor Brown declared the motion carried unanimously by those present.

(Councilmember Davidson arrived at 4:30 p.m.)

4. Consider appointing a Census 2000 Complete Count Committee for Mesa.

Special Assistant to the City Manager Jenny Sheppard addressed the Council and presented a recommended work plan to implement a Census 2000 Complete Count Committee for the City of Mesa.

Ms. Sheppard advised that the goals of a Complete Count Committee are to ensure that everyone in the community is aware of the census, motivate the community to participate by filling out the census form and returning it promptly and locating those hard to count pockets of our population. Ms. Sheppard commented that the City of Mesa's population figures are important because an accurate population count will determine the amount of federal and state revenue the City of Mesa will receive. Ms. Sheppard stated that approximately \$275 per person is received by Mesa each year in state and federal revenues.

Ms. Sheppard informed the Council that undercounting is a serious problem and requested that Council consider appointing an Executive Complete Count Committee. Ms. Sheppard advised that some of the appointed committee- members would also serve as chairmen of subcommittees such as: 1) the business and industry subcommittee; 2) community and minority organizations; 3) subcommittee on educational organizations; 4) subcommittee on religious organizations; 5) senior citizen groups; and 6) media representatives.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, that staff's recommendations regarding the appointment of a Census 2000 Complete Count Committee for Mesa be approved.

Carried unanimously.

5. Discuss and consider acquisition of a neighborhood park near Guadalupe and Ellsworth Road in the Augusta Ranch master-planned community.

Community Services Manager Wayne Korinek advised the Council that the acquisition involves a 10.1 acre parcel for the development of a future park site. Mr. Korinek stated that the site is located north of Guadalupe Road and east of Ellsworth Road within the Augusta Ranch master-planned community.

Councilmember Jaffa noted that the developer did not include in its initial development master plan acreage for the development of a park for their residents and open space areas. Councilmember Jaffa commented that generally a 600-acre plus development provides open space for the residents as part of the development and

that the space is maintained by the Homeowner's Association as opposed to the City. Councilmember Jaffa stated the opinion that the price of the property per acre appears excessive.

Mr. Korinek responded to questions from Councilmember Hawker pertaining to whether earlier efforts to secure a 200 to 300 acre proposed development site for a possible park would affect this 10-acre neighborhood park considering their close proximity to each other. Mr. Korinek advised that the parks serve different needs and stated that this park serves essentially a one-half mile service area and individuals or smaller groups while district or community parks serve larger facets of the community. Mr. Korinek explained that typically neighborhood parks are built in areas containing a population of 4,000 to 6,000 residents such as the proposed site.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that staff's recommendations relative to acquiring this property for the purpose of developing a City park be approved.

Carried unanimously.

In response to a question from Councilmember Hawker, Mr. Korinek informed the Council that park development is financed through park bond monies and added that one-million dollars has been allocated in the current budget for the purchase of two or three neighborhood park sites.

6. Discuss and consider proposed changes to the Sexually Oriented Business regulations.

City Attorney Neal Beets proposed to the Council that the City Code be amended to clarify and/or replace the term "principal business purpose." Mr. Beets requested that additional changes be made to incorporate specific language contained in Phoenix's ordinance. Mr. Beets also recommended that the deficiency in regulating escort services be addressed and spoke in support of approving staff's proposed amendments.

Mr. Beets advised that the current code provisions regulate businesses that have a "principal business purpose" that includes the sale or rental of "sexually explicit materials." Mr. Beets informed the Council that in the *Video Update* case, the Court ruled that the term "principal business purpose" was unconstitutionally vague. Mr. Beets added that a subsequent review of ordinances in other cities indicates that, in addition to replacing that term, incorporating other language from the Phoenix City Code will clarify and strengthen Mesa's ordinances.

Discussion ensued relative to the fact that the proposed amendments would eliminate references to the term "principal business purpose" or replace it with specific measurements.

Mr. Beets recommended that the regulatory provisions pertaining to the sale or rental of sexually explicit materials would apply if 30 percent or more of the businesses' merchandise, gross income or display area is devoted to or derived from sexually explicit materials, or if 200 or more square feet of display area contains sexually explicit materials. Mr. Beets stated that the proposed amendments also require escort businesses to obtain a license to conduct business in Mesa.

Mr. Beets advised that the Planning and Zoning Board, Community Development Department and the Police Department support the proposed recommendations.

Discussion ensued relative to the definitions in the proposed amendments and necessary revisions to remain current with the language in current court cases and jurisdictions within the Valley and to remain in accordance with State law. Mr. Beets advised that nudity alone may not be viewed under current court decisions as patently offensive sexual activity. Mr. Beets informed the Council that nudity is not illegal in the

context of a performance, such as a supposedly dramatic performance that may have some redeeming social or artistic value.

Councilmember Kavanaugh stated support for the proposed amendments.

Mr. Beets stated that this matter is a controversial issue and that a significant amount of time has been expended by staff to revise and strengthen the code for possible court challenges.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Jaffa, that staff's recommendations be approved and that this item be placed on a future agenda.

Carried unanimously.

Mr. Beets responded to questions from Councilmember Hawker relative to the proposed amendments and difficulties associated with prosecuting cases similar in nature to the *Video Update* case. Mr. Beets stated that video stores with less than 200 square feet are allowed in order for a business to carry hard-core pornography.

In response to a request for an additional amendment regarding sexually explicit materials that are sold by use of vending machines, Mr. Beets agreed to provide an alternative version of an amendment addressing vending machines. Mr. Beets stated that staff will provide the Council with an alternative version at the August 30, 1999 Council meeting and added that Council can decide which ordinance and/or amendments should be introduced.

Discussion ensued relative to the issue of obscenity, the fact that materials that are patently offensive materials violate community standards and falls under the jurisdiction of the County Attorney, and the fact that the City regulates sexually explicit material which does not rise to the level of obscenity.

7. Consider the following recommendations from the Transportation Committee:

In response to a request from Mayor Brown, Councilmember Hawker provided a brief overview of the recommendations from the Transportation Committee.

- a. Recommend the City submit to the Governor's Transportation Vision 21 Task Force the nine comments prepared by staff and the two additional comments suggested by Chairman Hawker.

It was moved by Councilmember Hawker, seconded by Councilmember Pomeroy, that staff's recommendations from the Transportation Committee be approved.

Upon a tabulation of votes, it showed:

AYES - Brown-Giles-Hawker-Jaffa-Kavanaugh-Pomeroy  
NAYS - Davidson

Mayor Brown declared the motion carried by majority vote.

- b. Recommend approval of the Transportation Advisory Board's recommendation to select Main Street as the potential light rail alignment from the Tempe border to Country Club Drive.
- c. Recommend approval of the Arizona Department of Transportation's recommended alignment for widening the Country Club Drive traffic interchange at the Superstition Freeway (U.S. 60).

- d. Recommend approval of the preferred alignment for improving Broadway Road from Power Road to the RWCD Canal.
- e. Recommend approval of the preferred alignment for the Gilbert Road and University Drive intersection improvement project.
- f. Recommend approval of the preferred alignment for improving the Alma School Road and Main Street intersection while continuing to research/plan relative to a light rail system.

It was moved by Councilmember Hawker, and seconded by Vice Mayor Giles, that recommendations 7b, 7c, 7d, 7e, and 7f be approved.

Carried unanimously.

8. Acknowledge receipt of minutes of various boards and committees.

- a. Crime Prevention Advisory Board meeting held July 21.
- b. Downtown Development Committee meeting held July 15.
- c. Museum and Cultural Advisory Board meeting held July 21.
- d. Transportation Advisory Board meeting held July 20.
- e. Transportation Committee meeting held July 21.
- f. Mesa Arts and Entertainment Center Design Committee meeting held July 20.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that receipt of the minutes of the above-listed boards and committees be acknowledge.

Carried unaimously

9. Hear reports on meetings and/or conferences attended.

Mayor Brown advised that there were no reports on meetings and/or conferences attended at this time.

10. Scheduling of meetings and general information.

City Manager Charles Luster advised that the meeting schedule is as follows:

Monday, August 30, 1999, 5:45 p.m. – Regular Council Meeting

Thursday, September 2, 1999, 4:00 p.m. – Council Study Session

Tuesday, September 7, 1999, 5:45 p.m. – Regular Council Meeting

(Mr. Luster advised that the Monday, September 6, 1999, Regular Council meeting has been rescheduled to Tuesday, September 7, 1999.

11. Prescheduled public opinion appearances (prescheduled appearances will begin after the preceding scheduled agenda items, which should be about 5:30 p.m., there will be a maximum of three speakers for three minutes per speaker).

Mayor Brown advised that there were no prescheduled public opinion appearances.

12. Adjournment.

Without objection, the Study Session adjourned at 5:10 p.m.

\_\_\_\_\_  
WAYNE BROWN, MAYOR

ATTEST:

\_\_\_\_\_  
BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 2<sup>nd</sup> day of August, 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_ 1999

\_\_\_\_\_  
BARBARA JONES, CITY CLERK