



COUNCIL MINUTES

June 25, 2007

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on June 25, 2007 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

Mayor Keno Hawker

STAFF PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

(Vice Mayor Walters excused Mayor Hawker from the entire meeting.)

Invocation by Pastor David Land, New Life Assembly of God.

Pledge of Allegiance was led by Keir Ashby of Scout Troup 594.

Mayor's Welcome.

Recognize outgoing board and committee members.

Councilmember Jones expressed appreciation for the efforts of the citizens who served on the City's advisory boards and committees. Vice Mayor Walters presented plaques to the individuals who were completing terms of service.

1. Take action on all consent agenda items.

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

It was moved by Councilmember Whalen, seconded by Councilmember Griswold, that the consent agenda items be approved.

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

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

Minutes of June 4, 2007 Council meeting.

2.1. Discuss and take action on the appointment of Kari Kent as Deputy City Manager.

City Manager Christopher Brady reported that following a national recruitment process, he is pleased to recommend the appointment of Kari Kent to the position of Deputy City Manager. He stated that Ms. Kent has "a proven track record" as a valued City of Mesa employee and stated that he has full confidence that she would continue to excel in her new role as Deputy City Manager.

It was moved by Councilmember Somers, seconded by Councilmember Griswold, that the appointment of Kari Kent as Deputy City Manager be approved.

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

Ms. Kent expressed appreciation to the Council for their support and confidence and said that she looks forward to continuing to serve the City of Mesa in her new position. She also acknowledged her family and friends for their support throughout her career.

Vice Mayor Walters, on behalf of the entire Council, congratulated Ms. Kent on her appointment.

3. Conduct a public hearing concerning the Five-year Capital Improvement Program for Fiscal Years ending 2008-2012.

Vice Mayor Walters announced that this is the time and place for a public hearing concerning the Five-Year Capital Improvement Program for Fiscal Years ending 2008-2012.

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

4. Conduct a public hearing on the proposed Fiscal Year 2007-08 Budget Plan.

Vice Mayor Walters announced that this is the time and place for a public hearing on the proposed Fiscal Year 2007-08 Budget Plan.

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

5. Conduct a public hearing concerning water, wastewater, natural gas, solid waste, electric energy cost adjustment factor, rate component fees and/or service charge increases.

Vice Mayor Walters announced that this is the time and place for a public hearing concerning water, wastewater, natural gas, solid waste, electric energy cost adjustment factor, rate component fees and/or service charge increases.

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

6. Take action on an ordinance and resolution modifying water rate schedules and charges as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure Committees – Ordinance No. 4724 and Resolution No. 9004.

It was moved by Councilmember Whalen, seconded by Councilmember Somers, that Ordinance No. 4724 and Resolution No. 9004 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Ordinance No. 4724 and Resolution No. 9004 adopted.

7. Take action on an ordinance and resolution modifying rates for wastewater utility services as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure Committees – Ordinance No. 4725 and Resolution No. 9005.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Ordinance No. 4725 and Resolution No. 9005 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Ordinance No. 4725 and Resolution No. 9005 adopted.

8. Take action on an ordinance and resolution modifying rates for natural gas utility services as recommended by the Audit & Finance (Approval. Vote 2-1, Rawles, nay) and Transportation & Infrastructure Committees – Ordinance No. 4726 and Resolution No. 9006.

It was moved by Councilmember Whalen, seconded by Councilmember Griswold, that Ordinance No. 4726 and Resolution No. 9006 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Ordinance No. 4726 and Resolution No. 9006 adopted.

9. Take action on an ordinance and resolution modifying rates for solid waste utility services as recommended by the Audit & Finance (Approval. Vote 2-1, Rawles nay) and Transportation & Infrastructure Committees – Ordinance No. 4727 and Resolution No. 9007.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Ordinance No. 4727 and Resolution No. 9007 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Ordinance No. 4727 and Resolution No. 9007 adopted.

10. Take action on an ordinance and resolution modifying the Electric Energy Cost Adjustment Factor as recommended by the Audit & Finance (Approval. Vote: 2-1, Rawles nay) and Transportation & Infrastructure Committees.

Vice Mayor Walters commented that she intends to vote no on this agenda item. She explained that since the 1940's, Mesa has used utility revenues to fund various City operations. Vice Mayor Walters voiced concern relative to the disparity of the rates charged to those residents who are City of Mesa electric utility customers as compared to the residents who receive their electric service from Salt River Project. She also stated that she would not object to the City generating millions of dollars in utility revenues as long as those monies are not subsidized by one small segment of Mesa's population. Vice Mayor Walters acknowledged that the increased revenues are intended to fund significant upgrades to the electric utility, but said she would prefer to see such costs allocated from the utility's existing revenues.

It was moved by Councilmember Whalen that the Electric Energy Cost Adjustment Factor be modified.

In response to a series of questions from the Council, City Manager Christopher Brady clarified that staff chose to fund the approximately \$2 million in upgrades with cash as opposed to issuing bonds. He explained that staff is in the process of evaluating the electric utility and did not want to complicate any future transaction with bond covenants or bond insurance. Mr. Brady advised that such action was also the recommendation of the City's financial advisers.

Mr. Brady commented that this year's expenditure for the improvements is approximately \$200,000 and would extend to \$1.6 million over a five-year period. He stated that if it is the decision of the Council to not pass along the program improvements to the electric utility, then it would be necessary for staff to transfer those costs for forecasting purposes to the General Fund or the Utility Fund.

Mr. Brady further indicated that staff set aside additional funding in the proposed FY 2007/08 budget in order to meet the requirements of the rating agencies, which is to increase the City's fund balances between 8% and 10%. He commented that the \$1.6 million expenditure over five years would not allow the City to meet that goal.

In response to a question from Councilmember Jones, Acting Budget Director Chuck Odom explained that the proposed average electric rate increase for City of Mesa electric utility customers would be .66 cents per month or \$7.92 per year.

Councilmember Jones concurred with Vice Mayor Walters' comments and noted that he is uncomfortable asking City of Mesa electric utility customers, many of whom reside in his district, to pay the proposed rate increases.

Councilmember Griswold suggested delaying Council action on this item until Mayor Hawker is available to participate in the discussions.

Vice Mayor Walters commented that with regard to long-term projections for the City's budget, she would suggest that staff could accomplish the same goal as they are proposing with this agenda item by increasing every Mesa household's water rate, for example, by five cents as opposed to increasing Mesa electric utility customers' rates by 66 cents a month.

Mr. Brady clarified that if staff proposed to sell the electric utility at some point in the future, that does not mean that the City could commit to a reduction in rates.

Vice Mayor Walters declared that the motion died for lack of a second.

It was moved by Vice Mayor Walters, seconded by Councilmember Rawles, that modification of the Electric Energy Cost Adjustment Factor be denied.

Upon tabulation of votes, it showed:

AYES - Jones-Rawles-Walters
NAYS - Griswold-Somers-Whalen
ABSENT - Hawker

Vice Mayor Walters declared the motion failed for lack of a majority vote by those present.

It was moved by Councilmember Griswold, seconded by Councilmember Somers, that this agenda item be continued to the July 2, 2007 Regular Council Meeting.

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

*11. Take action on an ordinance and resolution modifying the Terms and Conditions for the Sale of Utility Services, Terms and Conditions for Standard Offer and Direct Access Services and Rules and Regulations (Electric Utility) as recommended by the Audit & Finance (Approval. Vote: 3-0) and Transportation & Infrastructure Committees – Ordinance No. 4708 and Resolution No. 8989.

- *12. Take action on an ordinance and resolution modifying the fees and charges for the Financial Services Operations Division (Customer Service and Revenue Collections Operations) as recommended by the Audit and Finance (Approval. Vote 3-0) and Transportation & Infrastructure Committees – Ordinance No. 4709 and Resolution No. 8990.

It was moved by Councilmember Rawles, seconded by Councilmember Jones, to recess the Regular Council Meeting and convene a Special Council Meeting for the purpose of approving the Budget and Five-Year Capital Improvement Program.

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

(The Regular Council Meeting recessed at 6:29 p.m. and resumed at 6:39 p.m.)

13. Discuss, take public comment and take action on the following Minor General Plan Amendment and zoning case:

- 13a. Public Hearing on General Plan Amendment **GPMinor07-07 (District 6) (Related to items 13b and 13c).**

Vice Mayor Walters announced that this is time and place for a public hearing regarding General Plan Amendment **GPMinor07-07.**

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

- 13b. Take action on the following resolution:

GPMinor07-07 (District 6) The 9000 to 9100 block of East Southern Avenue (north side). Located west of Ellsworth Road and north of Southern Avenue (3.2± ac). Minor General Plan Amendment to change the General Plan Land Use Map from Low Density Residential (LDR 0-1 du/ac) to Neighborhood Commercial (NC). Mark Kohner, owner; Lisa Luther, Arcadis-US, Inc., applicant – Resolution No. 9008. ***(Held a neighborhood meeting, notified property owners, registered neighborhoods and homeowners' associations.) (Related to items 13a and 13c)***

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

It was moved by Councilmember Rawles, seconded by Councilmember Whalen, that Resolution No. 9008 be adopted.

Vice Mayor Walters declared the motion carried unanimously by those present and Resolution No. 9008 adopted.

- 13c. Take action on the following ordinance introduced at a prior Council meeting:

Z07-39 (District 6) The 9000 to 9100 block of East Southern Avenue (north side). Located west of Ellsworth Road and north of Southern Avenue (3.2± ac). District 6. Rezone from R1-43 and R1-7 to C-2 and Site Plan Review. This request will allow the development of an office structure and two restaurant facilities. Mark Kohner, owner;

Lisa Luther, Arcadis-US, Inc., applicant – Ordinance No. 4728. **(Related to items 13a and 13b). (Held a neighborhood meeting, notified property owners, registered neighborhoods and homeowners' associations.)**

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

It was moved by Councilmember Rawles, seconded by Councilmember Whalen, that Ordinance No. 4728 be adopted.

Vice Mayor Walters declared the motion carried unanimously by those present and Ordinance No. 4728 adopted.

14. Take action on the following liquor license applications:

*14a. Arizona Golf Resort

Person Transfer Bar License for Arizona Golf Resort, 425 S. Power Road, Shavit Investment Group LLC – Applicant, Lauren Kay Merrett – Agent. The Bar License currently held at this location by Arizona Golf Resort will transfer to the applicant. **(District 6)**

*14b. Apache Wells Country Club

Person & Location Beer & Wine Bar License for Apache Wells Country Club, 5601 E. Hermosa Vista Drive, Apache Wells Country Club, Inc. – Applicant, Randy D. Nations – Agent. Wingo Enterprises, Inc. will retain the previous Beer & Wine Bar License held at this location. **(District 5)**

*14c. UB's Restaurant & Bar

Person & Location Transfer Beer & Wine Bar License for UB's Restaurant & Bar, 1911 W. Broadway Road, Suite #1, Small Four Restaurant Corp. – Applicant, Russell Paul Winn – Agent. The previous Restaurant License held at this location by Small Four Restaurant Corp. was revoked by the State Liquor Board. **(District 3)**

*14d. 7-Eleven #16179L

New Beer & Wine Store License for 7-Eleven #16179L, 839 S. Stapley Drive, 7-Eleven Inc. – Applicant, Nicholas Carl Guttilla – Agent. The previous Beer & Wine Store License held at this location by Akash, Inc., will revert back to the State. **(District 4)**

*14e. 7-Eleven #22664K

New Beer & Wine Store License for 7-Eleven #22664K, 1155 S. Country Club Drive, 7-Eleven Inc. – Applicant, Nicholas Carl Guttilla. – Agent. The previous Beer & Wine Store License held at this location by Akash, Inc., will revert back to the State. **(District 4)**

*14f. **Deleted.**

*14g. Long Wong's

New Restaurant License for Long Wong's, 1455 S. Stapley Drive, Suite 23-24, Mark Killian – Applicant. The previous Restaurant License held at this location by JD3 LLC will revert back to the State. **(District 4)**

15. Take action on the following contracts:

- 15a. Armored Vehicle for the Police Department (Homeland Security Program, 2006 Urban Area Security Initiative [UASI] Funded) **(Sole Source)**.

The Procurement Services Department recommends awarding the Mesa contract to the sole source bidder, Lenco Industries, dba Lenco Armored Vehicles, at \$247,137.79, including use tax.

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

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

- *15b. One Full-Size SUV for the Mesa Police Department (Fully Grant Funded 2006 State Homeland Security Grant Program).

The Procurement Services Department recommends authorizing purchase from the State of Arizona contract with Midway Chevrolet at \$38,414.22, including upfitting and applicable sales tax.

- *15c. One Container Carrier Truck (Replacement) for the Solid Waste Department.

The Procurement Services Department recommends awarding the Mesa contract to the lowest responsive bidder, I-10 International Trucks, dba McCandless of Arizona, at \$99,810.66, including applicable sales tax.

- *15d. Three-year Supply Contract for Spray Marking Paint for Warehouse Inventory.

The Procurement Services Department recommends awarding the Mesa contract to the lowest responsive bidder, Abatix Corp. at \$47,932.55 annually, based on estimated requirements.

- *15e. Two GPS Surveying Systems (Replacement) for the Engineering Department **(Single Bid)**.

The Procurement Services Department recommends awarding the Mesa contract to the single responsive bidder, Surveyors Service Company, at \$50,731.33, including applicable sales tax.

- *15f. Roof Improvements and HVAC Replacement at the Broadway Recreation Center located at 59 East Broadway Road and HVAC Replacement at the Ranch House Restaurant located at 2155 South Dobson Road, City of Mesa Project No. 05-920-001.

This project will replace the old roofing system on the Broadway Recreation Center with a new roofing system as well as replace the original heating and air conditioning system (HVAC). This project will also replace the heating and air conditioning system at the Ranch House Restaurant at the Dobson Ranch Golf Course.

Recommend award to low bidder, LOR Construction, Inc., in the amount of \$442,500.00 plus an additional \$44,250.00 (10% allowance for change orders) for a total award of \$486,750.00. Funding is available in the Facilities Maintenance Operating Budget.

- *15g. Desert Wells No. 22 – Drilling Phase, located at 11144 East Elliot Road, City of Mesa Project No. 05-066-001. **(District 6)**

This project will drill a new well to expand the City's water supply capabilities and system reliability in the southeast portion of the Desert Wells Zone.

Recommend award to low bidder, Morex Investment LLC dba Arizona Beeman Drilling, in the amount of \$860,629.00 plus an additional \$86,062.90 (10% allowance for change orders) for a total award of \$946,691.90. Funding is available from existing water bond authorization.

- *15h. City Council Chambers Building Standby Generator and District Cooling Plant Standby Generator, City of Mesa Project No. 06-003-001.

This project will replace the existing standby generator at the City Council Chambers building located at 57 East 1st Street and will install a new standby generator for the District Cooling Plant located at the Mesa Arts Center (MAC), 1 East Main Street.

Recommend award to low bidder, AJP Electric, Inc., in the amount of \$326,600.00 plus an additional \$32,660.00 (10% allowance for change orders) for a total award of \$359,260.00. Funding is available from the approved Facility Maintenance Operating Budget.

- *15i. Miscellaneous HVAC Projects, City of Mesa Project No. 06-905-001.

This project will replace outdated heating, ventilation and air conditioning (HVAC) equipment with new systems on various City buildings.

Recommend award to low bidder, Midstate Mechanical, Inc., in the amount of \$1,306,204.00 plus an additional \$130,620.40 (10% allowance for change orders) for a total award of \$1,436,824.40. Funding is available from the Facilities Maintenance Operating Budget.

- *15j. Concrete Replacement at Fire Station No. 209, located at 7035 East Southern Avenue, City of Mesa Project No. 05-930-002.

This project will replace the concrete slabs at Fire Station 209 that have deteriorated and been damaged over time due to the weight and traffic patterns of the vehicles.

Recommend award to low bidder, Talis Construction Corporation, in the amount of \$33,460.20 plus an additional \$3,346.02 (10% allowance for change orders) for a total award of \$36,806.22. Funding is available from the Fire Department Operating Budget.

- *15k. Re-Roof East Mesa Service Center Traffic Operations Building, located at 6935 East Decatur Street, City of Mesa Project No. 06-906-003.

This project will remove the existing roofing materials and install a modified bitumen roofing system on the East Mesa Service Center Traffic Operations Building.

Recommend award to low bidder, Starkweather Roofing, in the amount of \$68,486.65 plus an additional \$6,848.67 (10% allowance for change orders) for a total award of \$75,335.32. Funding is available from the Facilities Maintenance Operating Budget.

16. Introduction of the following ordinances and setting July 2, 2007 as the date of the public hearing on these ordinances:

- *16a. **Z07-53 (District 6)** 9107 East Southern Avenue. Located west of Ellsworth Road on the south side Southern Avenue (1.8± ac.). Rezone the western portion of the site from AG (Conceptual C-2) to C-2 and Site Plan Modification. This request will allow for the development of a retail building. Scott Anderson, owner; William E. Canjura, Archicon, L.C., applicant. ***(Notified property owners, registered neighborhoods and homeowners' associations.)***

PHO Recommendation: Approval with conditions.

- *16b. Amending the Mesa City Code regarding the following traffic modifications as recommended by the Transportation & Infrastructure Committee (Approval. Vote: 3-0):
No Parking: 10-3-24(D) (Full Time No Parking

On Second Avenue from Mesa Drive to Pomeroy (north of Broadway Road and west of Mesa Drive) **(District 4)**

On the east side of Pomeroy from Broadway Road to a point 198 feet north of Broadway Road and on the west side of Pomeroy from Broadway Road to a point 210 feet north of Broadway Road (3rd Avenue alignment) (north of Broadway Road and west of Mesa Drive) **(District 4)**

17. Take action on the following resolutions:

- *17a. Modifying fees and charges for the Planning Division. **Deleted.**

- *17b. Approving and authorizing the City Manager to execute a Second Amendment to an Intergovernmental Agreement (IGA) between the Maricopa County Library District (MCLD) and the City of Mesa for the Reciprocal Borrowing Program. Under the agreement, participating libraries are reimbursed for the net number of non-resident cards issued – Resolution No. 8991.
- *17c. Approving and authorizing the City Manager to execute an Intergovernmental Agreement (IGA) among the Maricopa County Department of Transportation (MCDOT), the Town of Gilbert and City of Mesa for the design and construction for the improvements along Power Road from the East Maricopa Floodway to Galveston Street. Mesa's estimated net share of the improvement cost is \$4,702,507 – Resolution No. 8992.
- *17d. Extinguishing an Easement for Drainage Ditch at 7326 and 7320 East Abilene Avenue. **(District 6)** – Resolution No. 8993.

This easement is no longer required.
- *17e. Extinguishing a portion of a Public Utilities and Facilities Easement on Lot 6 of Power Plaza at 257 South Power Road. **(District 6)** – Resolution No. 8994.

This easement is being extinguished to allow the construction of a new commercial development.
- *17f. Extinguishing a Drainage Easement at 3850 East Huber Street, Unit #1. **(District 6)** – Resolution No. 8995.

This easement is being extinguished to allow the construction of a swimming pool.
- *17g. Extinguishing a portion of a Public Utility and Facilities Easement at 1804 West Main Street. **(District 3)** – Resolution No. 8996.

This easement is being extinguished to allow the construction of the new Transit Center for Valley Metro Rail.
- *17h. Approving and authorizing the City Manager to execute a Regional Transportation Plan (RTP) arterial street project agreement between the Maricopa Association of Governments and the City of Mesa for Dobson and Guadalupe Intersection Improvements. The City will be reimbursed \$70,000 for this project. **(District 3)** – Resolution No. 8997.
- *17i. Approving and authorizing the City Manager to execute a Regional Transportation Plan (RTP) arterial street project agreement between the Maricopa Association of Governments and the City of Mesa for Southern Avenue and Stapley Drive Intersection Improvements. The City will be reimbursed \$121,000 for this project. **(District 4)** – Resolution No. 8998.
- *17j. Approving and authorizing the City Manager to execute a Regional Transportation Plan (RTP) arterial street project agreement between the Maricopa Association of

Governments and the City of Mesa for McKellips and Val Vista/Greenfield/Higley Intersection Improvements. The City will be reimbursed \$121,000 for this project. **(Districts 1 and 5)** – Resolution No. 8999.

- 17k. Approving the implementation of additional measures for the Maricopa Association of Governments (MAG) 2007 Five Percent Plan for Particulate (PM₁₀). This plan identifies specific measures to reduce air pollution levels by 5% per year – Resolution No. 9009.

It was moved by Councilmember Somers, seconded by Councilmember Whalen, that Resolution No. 9009 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Resolution No. 9009 adopted.

- 17l. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between Valley Metro Rail, Inc. and the City of Mesa for operations and maintenance of the light rail transit system. **(District 3)** – Resolution No. 9010.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Resolution No. 9010 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

Vice Mayor Walters declared the motion carried by majority vote of those present and Resolution No. 9010 adopted.

- *17m. Approving the submittal of an application to the Foreign-Trade Zones Board for the Major Boundary Modification of the General Purpose Foreign Trade Zone No. 221 project as recommended by the General & Economic Development Committee (Approval. Vote: 3-0) – Resolution No. 9000.

- 17n. Calling a Special Election to be held on November 6, 2007 to submit to Mesa qualified electors a question relating to the approval or disapproval of certain public expenditures related to the Waveyard Development Project as required by Section 613 of the Mesa City Charter – Resolution No. 9011.

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

It was moved by Councilmember Griswold, seconded by Councilmember Jones, that Resolution No. 9011 be adopted.

Upon tabulation of votes, it shows:

AYES - Griswold-Jones-Rawles-Somers-Whalen
ABSTAIN - Walters
ABSENT - Hawker

Councilmember Whalen declared the motion carried unanimously by those present and voting and Resolution No. 9011 adopted.

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

- *18. Take action on an ordinance and resolution repealing the existing Personnel Rules applicable to City of Mesa employees and adopting new Personnel Rules – Ordinance No. 4710 and Resolution No. 9001.
- *19. Approving the Grass-to-Xeriscape Program as recommended by the Audit & Finance Committee (Approval. Vote 3-0). (Related to Item 20a)
- 20. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (*), a blue card must be given to the Clerk before Council votes on the consent agenda.
- *20a. Repealing Section 5-17-8(E) of the Mesa City Code pertaining to the Landscape Rebate Program as recommended by the Audit & Finance Committee (Approval. Vote 3-0). **(Related to Item 19)** – Ordinance No. 4711.
- *20b. Amending Sections 11-18-2, 11-18-6, 11-18-8, 11-18-9, and 11-18-10 of the Zoning Ordinance pertaining to Fees for planning services – Ordinance No. 4712.

P&Z Recommendation: Approval. (Vote: 5-2 with Boardmember Langkilde and Carter nay)
- *20c. Amending Section 5-13-2 of the Mesa City Code to increase the Solid Waste Residential Development Tax as recommended by the Audit & Finance Committee. (Approval. Vote 3-0) – Ordinance No. 4713.
- *20d. **Z06-97 (District 6)** The 11000 to 11300 block of East Pecos Road (north side) and the 6700 to 6800 block of South Mountain Road (east side). Located at the northeast corner of Pecos and Mountain Roads (12.70± ac.). Rezone from AG to M-1-PAD and Site Plan Review. This request will allow for the development of industrial offices/warehouses. Justin Dupuy, Braided Cord Enterprises, Michael Hickey, Ocotillo Gilbert Road LP, owners; Randolph Carter, Dream Catchers Planning and Design, LLC, applicant. **(Notified property owners.)** – Ordinance No. 4714.

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

- *20e. **Z07-38 (District 3)** 129 North Alma School Road. North and east of Main Street and Alma School Road (0.20± ac.). Rezone from R-2 to R-3 PAD and Site Plan Review. This request will allow the addition of an open space area to a residential subdivision. Tim Holt, owner/applicant. **(Notified property owners.)** – Ordinance No. 4715.

PHO Recommendation: Approval with conditions.

- *20f. **Z07-42 (District 6)** 9641 East Hampton Avenue (south side). Located south of Southern Avenue and west of Crismon Road (7.41± ac.). Rezone from R1-43 and AG to C-1 BIZ and Site Plan Review. This request will allow the development of two medical office buildings. George F. Tibsherany, owner; Martin M. Hazine, applicant. **(Held three neighborhood meetings, notified property owners, interested parties, registered neighborhoods and homeowners' associations.)** – Ordinance No. 4716.

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

- *20g. **Z07-44 (District 6)** 11537 East Warner Road. Located south and west of Meridian Road and Warner Road (8± ac.). Rezone from R1-43 to C-2 and Site Plan Review. This request will allow for the development of a two-story indoor self-storage facility and a neighborhood retail center. Also consider the preliminary plat of "Superstition Vistas Square." Tom Billings, Billings Family, LLC, owner; Reese L. Anderson, Pew & Lake, PLC, applicant. **(Held two neighborhood meetings, notified property owners and all registered homeowners' associations.)** – Ordinance No. 4717.

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Finter & Esparza absent)

- *20h. **Z07-45 (District 6)** 10630 East Pecos Road. Located north and west of Pecos Road and Signal Butte Road (5.53± ac.). Site Plan Review. This request will allow for the development of two buildings to be used for the wholesale distribution of building materials. Tom Leahy, Van Co. Properties LLC, owner; J. Joseph Diemer, Diemer Associates, applicant. **(Notified property owners and neighborhood associations.)** – Ordinance No. 4718.

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

- *20i. **Z07-46 (District 5)** 6759 East Albany Street, 6756 East Akron Street, and 160 North Power Road. Located north and west of Power Road and Main Street (1.22± ac.). Site Plan Review. This request will allow for the development of an office building. Cameron Dana, owner; Randolph L. Carter, Dream Catchers Planning and Design, LLC, applicant. **(Notified property owners, interested parties, registered neighborhoods and homeowners' associations.)** – Ordinance No. 4719.

P&Z Recommendation: Approval with conditions. (Vote: 4-0-1 with Boardmember Carter abstaining and Boardmembers Finter and Esparza absent)

- *20j. **Z07-47 (District 6)** The 10600 to 10800 blocks of East Southern Avenue (north side) and the 1100 to 1200 block of South Signal Butte Road (west side). Located at the northwest corner of Signal Butte Road and Southern Avenue (15.76± ac). Site Plan Review. This request will allow for the development of a retail shopping center. Jeffrey Tucker, Weingarten/Investments, Inc., owner; W. Ralph Pew, Pew and Lake, PLC, applicant. ***(Held a neighborhood meeting, notified property owners, interested parties and registered neighborhoods.)*** – Ordinance No. 4720.

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

- *20k. **Z07-49 (District 1)** 1166 North Alma School Road. Located west and south of Alma School Road and the Loop 202 Freeway (6.6± ac.). Rezone from PEP to PEP-BIZ for the northern portion of the site (5.68± ac.) and Site Plan Review. This request will allow for the development of a four-story hotel and a restaurant pad. David Strong, Wolf Urban Development, owner; Jim Larson, Gensler, applicant. ***(Held a neighborhood meeting, notified property owners, registered neighborhoods and homeowners' associations.)*** – Ordinance No. 4721.

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

- *20l. **Z07-50 (District 6)** 14207 South Power Road. Generally located southeast of Power Road and Ray Road (4.04 ac.). Site Plan Review. This request will allow for the development of retail buildings including a Goodwill store. Dennis Sadler, Piedmont Development of Arizona, LLC, owner; Steven Nevala, Cawley Architects, Inc., applicant. ***(Notified property owners, registered neighborhoods and homeowners' associations.)*** – Ordinance No. 4722.

PHO Recommendation: Approval with conditions.

- *20m. **Z07-54 (District 4)** The 1300 block of East Baseline Road (north side). Located north of Baseline Road and east of Stapley Drive (1.61± ac.). Site Plan Modification. This request will allow the development of a new self-storage building. Ryan Desmond, owner; Tarik Williams, applicant. ***(Notified property owners and interested parties.)*** – Ordinance No. 4723.

PHO Recommendation: Approval with conditions.

21. Hear, discuss and take action on the appeals of the following Design Review Board and Planning & Zoning Board cases:

- 21a. **DR07-56 (District 1) Riverview Point Phase I** Bass Pro Drive and Alma School Road. Approval of two office buildings totaling 166,000 sq. ft. Riverview Park Partners, owner; Tom Martin, applicant.

Design Review Board Decision: Passed. (Vote: 4-0 Boardmember Bottomley was not present for this vote.)

Councilmember Rawles declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item.

David Udall, 30 West 1st Street, an attorney representing the developer, addressed the Council and introduced Tom Martin, a representative of Lauth Property Group. He reported that the applicant filed a formal appeal of the Design Review Board's (DRB) decision on May 2, 2007 relative to this case. Mr. Udall explained that the Board recommended approval of the case contingent upon the inclusion of five additional stipulations to be incorporated with staff's Conditions of Approval.

Mr. Udall offered an extensive historical overview of the case. His comments included, but were not limited to, the following: that in April of this year, the developer met with the DRB at a Design Review Work Session; that at that time, the Board offered input with regard to possible design elements for the project; that the developer subsequently incorporated various revisions into the design (i.e., stronger entryway, modified color scheme, revised materials); that at the May 2nd DRB meeting, the case was initially listed on the consent agenda with staff support for approval, but later removed from the consent agenda; and that after extensive discussion, the Board recommended the following conditions: Continue the palm theme along Bass Pro to Alma School; Work with staff to intensify the entry by increasing the massing; Work with staff to provide higher-grade materials; Provide shade canopies, window fenestrations at the end pieces of the buildings; and Provide palm trees along both sides of Bass Pro all the way to Alma School.

Mr. Udall displayed a map and photographs of the proposed project demonstrating various changes that have been incorporated into the project. He explained that of particular concern to the developer was the Board's recommendation that palm trees be installed along Bass Pro Drive to Alma School Road. Mr. Udall stated that such a concept was not included in the developer's original proposal, nor a condition of approval by staff. He added that the additional trees recommended by DRB would cost approximately \$300,000. Mr. Udall further commented that the entire Riverview development has incorporated more than 30 palm trees throughout the area. He added that the developer has included shade trees in the design of the two office buildings and does not believe the inclusion of additional palm trees is necessary.

Mr. Udall concluded his presentation by stating that the applicant is appealing the additional stipulations recommended by DRB (Conditions g through k) as reflected in the May 2, 2007 DRB minutes (available for review in the City Clerk's Office) and also requesting Council approval of staff's recommendations with regard to this case.

In response to a question from Vice Mayor Walters, City Attorney Debbie Spinner clarified that if the Council favored the applicant's appeal, they could approve, deny or modify the decision of the Design Review Board. She explained that if the Council elected to modify the decision by deleting Conditions g through k, the motion would be to approve the appeal by deleting those specific conditions. Ms. Spinner added that the Council could also make a motion to approve the original staff recommendation.

Vice Mayor Walters commented that when construction began on the first phase of the Mesa Riverview project and palm trees were included as part of the design, neighbors adjacent to the development expressed concern that palm trees would be included on the other side of the development as well. She explained that the residents were told that was not necessarily the case and that there were other options available to reference the palm trees on the shopping center side of the development. Vice Mayor Walters commented that the developer has, in fact,

accomplished that goal and also included shade trees in the design so that neighbors would be provided protection from the sun when they walked to the Mesa Riverview development.

Discussion ensued relative to the fact that the developer purchased the land through a fee simple title, incurred substantial costs to dedicate a roadway, and made various design revisions including the color palette and construction materials.

Planning Director John Wesley concurred with Mr. Udall's previous comments that the developer responded well to DRB's input at the Design Review Work Study and increased the design quality of the site. He explained that it was the opinion of staff that the developer met the requirements of the Board and recommended approval of the case.

Councilmember Griswold noted that palm trees are included in the retail areas of the Mesa Riverview development and said that he sees no reason why it would be necessary for additional palm trees to be included as a component of the office buildings.

Responding to an inquiry from Vice Mayor Walters, Mr. Martin explained that the developer intends to construct the office buildings to Leadership in Energy and Environmental Design (LEED) standards. He stated that the project is especially suited to LEED certification and added that locally produced and recycled materials, energy efficient windows and HVAC systems would be incorporated into the design.

Robert Burgheimer, 6062 E. Riverdale, a member of the DRB, reviewed various concerns expressed by the Board regarding this case. He explained that in particular, the Board questioned the overall quality level of the project and commented that the design appeared "too industrial" for the site. Mr. Burgheimer added that the Board endeavored to ensure that the palm trees would continue to be a design element throughout Mesa Riverview.

Vice Mayor Walters expressed appreciation to the DRB for their efforts and hard work with regard to this case. She commented that subsequent to the Design Review Work Study, the developer made significant revisions resulting in a more attractive product.

In response to a question from Vice Mayor Walters, Ms. Spinner clarified that because this project does not include retail development, it would not be eligible for the retail tax rebate applied to the Mesa Riverview site.

In response to a comment by Vice Mayor Walters, Mr. Udall stipulated that the design revisions outlined by himself and Mr. Martin today were included as part of the developer's second submittal to the DRB on May 2nd. He referenced a document entitled "Staff Analysis" and reviewed the various revisions. (See Attachment 1.)

It was moved by Councilmember Jones, seconded by Councilmember Somers, that staff's recommendation relative to Case No. **DR07-56** be approved (without the additional stipulations recommended by the Design Review Board at their May 2, 2007 meeting).

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
ABSTAIN - Rawles
ABSENT - Hawker

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

21b. **Z07-40 (District 5) Force Capital Office** 6712 East Raftriver Street. Located west of Power Road on the north side of Thomas Road (1.02± ac). Site Plan Modification. This request will allow the development of an office building. Martin Maslonka, owner; Michelle Watanabe, Form 5 Architecture, applicant. ***(Held a neighborhood meeting, notified property owners, interested parties, registered neighborhoods and homeowners' associations.)***

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

Ms. Spinner commented that this is the first appeal that has been filed since the Council changed the process for Site Plan Modification. She explained that under certain circumstances, the Planning & Zoning Board (P&Z) may recommend Site Plan Modifications, which occurred in this case. Ms. Spinner stated that per the City Code, an individual may appeal the decision of the P&Z to the Council and stated that the Council has the discretion to affirm, deny or modify the Board's decision.

Robert Burgheimer, 6062 E. Riverdale, the architect for the project, displayed a PowerPoint presentation and provided an extensive overview of the project. He explained that the project is a two-story private office building and noted that the applicant has met all zoning and design review requirements. He added that the project, which is located at the northeast corner of Raftriver and Thomas Road, is situated directly in front of Red Mountain Elementary School.

Mr. Burgheimer offered a series of comments regarding the project including, but not limited to, the following:

- In an effort to address safety concerns in the area of the Red Mountain Elementary School, the applicant has proposed a gate along Raftriver that would be closed from 8:00 a.m. to 8:30 a.m. and prevent traffic from cutting through the site.
- An increased landscape median on the west side of property will be designed to create a larger pedestrian area along the street.
- The maximum height allowed in this zoning district is 30 feet and the project is within that range.
- Most of the homes in the area face north and south and the office building would not block their view.
- Because of volatile neighborhood meetings regarding this matter, a project website was created to respond to the neighbors' questions and concerns. Mailers were also distributed.
- The design of the project is unique and modern, consisting of glass, stucco with stone and similar colors to those used in adjacent buildings.

- The property is zoned C-2 and has been since 1980. (Note: A restaurant/bakery was originally projected for this site.)
- The egress points in and out of the site are the same as the approved site plan for the restaurant/bakery project
- The primary users of the site would use the Thomas Road entrance.

David Bender, 6522 E. Star Valley Street, a representative of the Red Mountain Social Club, expressed a series of concerns regarding this case. He commented that there are no two-story commercial buildings within miles of the property and stated the opinion that this project would not be an appropriate and compatible design for the neighborhood.

John Vitale, 3832 N. St. Elias Circle, expressed concern relative to potential traffic problems with regard to vehicles exiting Thomas Road onto Rafriver, and especially in the vicinity of Red Mountain Elementary School. He stated that it would be appropriate to widen Rafriver from Thomas Road to the school and added that he would like to see the applicant place the driveway on Rafriver directly opposite Sierra Morena for safety reasons.

Planning Director John Wesley responded to a series of inquiries from the Council and stated that the issue with regard to the widening of Rafriver is not a component of this application. He explained that staff is looking into the possibility of funding such improvements in the area.

It was moved by Councilmember Rawles that the Site Plan Modification with reference to Case No. **Z07-40**, as approved by the Planning & Zoning Board, be approved.

Councilmember Rawles commented that as a caveat to his motion, he would ask that when Mr. Burgheimer resumes his service on the Design Review Board, that he remembers his previous comment, that every person has the right to build whatever they want. He said that the comments he heard from Mr. Burgheimer during this item and the previous matter are, in his mind, difficult to reconcile.

Councilmember Whalen seconded the motion.

Councilmember Somers commented that although the design of the project is visually different from most buildings in Red Mountain Ranch, in his opinion, it would not be sufficient reason to deny the applicant's request. He stated that C-2 zoning, by right, allows a maximum height of 30 feet and inquired whether, under current Arizona law, a Proposition 207 claim could be filed if the Council were to mandate a single-story building.

Responding to Councilmember Somers' inquiry, Ms. Spinner stated that she could not provide the Council with a definitive answer in that regard because there has been no interpretation of Proposition 207.

Councilmember Griswold acknowledged that the proposed office building is beautifully designed, but questioned whether it is appropriate at this particular location. He expressed appreciation to the neighbors for their efforts and hard work with regard to this matter and also thanked the applicant for creating the project website. Councilmember Griswold added that he would continue to have concern with regard to the potential traffic issues on Rafriver in front of the elementary school.

Vice Mayor Walters called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Rawles-Somers-Walters-Whalen
NAYS - Griswold
ABSENT - Hawker

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

21c. **DR07-61 (District 5) Force Capital Office** 6712 East Rafriver Street. Located west of Power Road on the north side of Thomas Road (1.02± ac). Approval of a 12,229 sq. ft. office. Martin Maslonka, owner; Michelle Watanabe, Form 5 Architecture, applicant.

Design Review Board Decision: Passed. (Vote: 4-0-1 with Boardmember Burgheimer abstaining.)

Mr. Burgheimer commented that because of his extensive presentation regarding item 21b, he would refrain from making a similar presentation for this case. He stated that he would be happy to respond to any questions or concerns the Council may have regarding the matter.

David Bender addressed the Council once again and commented that the design of the building is not compatible with the surrounding residential community. He stated that in particular, he objects to the color of the building, the ornamental metal columns, balconies, and windows.

Mr. Burgheimer commented that a majority of the homes in Red Mountain Ranch, including his own, are of the same design. He added that it was the opinion of the Design Review Board and the Planning & Zoning Board that the building was well designed.

Alex Kollitz, 506 E Lehi, expressed support for the project and stated that the private property rights of the owner should take precedence as long as the project is a quality design.

It was moved by Councilmember Rawles, seconded by Councilmember Jones, that Case No. **DR07-61**, as approved by the Design Review Board, be approved.

Councilmember Somers stated that he would support the motion, but noted that he would have preferred if the owner had worked with the neighbors to design a building that was more compatible with the area.

Vice Mayor Walters commented that she would support the motion, but said that she would have included this property as part of the Red Mountain Ranch Homeowners' Association and also part of the design standards. She added that the property owner has a right to construct a building that meets City design guidelines and is a rational design.

Vice Mayor Walters called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Rawles-Somers-Walters-Whalen
NAYS - Griswold
ABSENT - Hawker

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

22. Authorizing the City Manager to enter into an agreement with the Mesa Convention & Visitors Bureau to continue promoting tourism and convention business in Mesa.

It was moved by Councilmember Somers, seconded by Vice Mayor Walters, to authorize the City Manager to enter into an agreement with the Mesa Convention & Visitors Bureau to continue promoting tourism and convention business in Mesa.

Councilmember Rawles stated that he objects to the use of taxpayer money, no matter the manner in which it is collected, to promote a single industry in the community and would vote no on the motion.

Committeemember Somers commented that a significant portion of the City's revenues used to pay for Police, Fire, the Court and Parks is derived through tourism and sales tax dollars.

Vice Mayor Walters called for the vote.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
NAYS - Rawles
ABSENT - Hawker

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

23. Take action on the following subdivision plats:

- *23a. "MAP OF DEDICATION FOR PARKWOOD RANCH MARKETPLACE" (**District 6**) 1100 block of South Crismon Road (east side) located north and east of Southern Avenue and Crismon Road. Pros Investments, LLC, Robert A. Stave, manager and Quiktrip Corporation, Chester E. Cadieux, III, President, owners.
- *23b. "TOWNHOMES AT BROWNWOOD CONDOMINIUMS" (**District 1**) 737 East Brown Road (south side) located south and west of Brown Road and Horne. 64 R-4 residential condominium units (2.28 ac) Townhomes at Brownwood, LLC, Todd Sitek, member, owner.
- *23c. "AUGUSTA MARKETPLACE" (**District 6**) 2700 block of South Crismon Road (west side) located north and west of Guadalupe Road and Crismon Road. 5 C-2 DMP commercial lots (7.19 ac) Guadalupe/Crismon LLC, John Badura, representative and Fresh & Easy Neighborhood Market Inc., Tim Mason, President, owners.

- *23d. "CABRILLO POINT, A CONDOMINIUM" (**District 1**) 960 North Orange (west side) located south and west of Brown Road and Country Club Drive. 64 R-4 residential condominium units (2.81 ac) Corzona Properties, LLC, Joel McCloud, manager, owner.
- *23e. "EGG'S PLACE" (**District 6**) 1200 block of South Sossaman Road (west side) located south and west of Southern Avenue and Sossaman Road. 2 C-2 DMP commercial lots (3.26 acres) Superstition Springs Investors, LP, Michael A. DeBell, Executive Vice President, owner.

24. Items from citizens present.

David Bush, 6854 E Laguna Azul Avenue, read an excerpt from an article written by United States Senator John McCain recounting his time as a prisoner of war in Vietnam and what the Pledge of Allegiance meant to him then.

Alex Kollitz, 506 E. Lehi Road, a representative of the Mesa Veterans' Parade Association, provided an update of upcoming fundraising projects for the event.

25. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:10 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 25th day of June 2007. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK