

COUNCIL MINUTES

July 7, 1997

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level of the Council Chambers, 57 East 1st Street, on July 7, 1997, at 5:45 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Pat Gilbert
John Giles
Dennis Kavanaugh
Joan Payne
Wayne Pomeroy
Jim Stapley

COUNCIL ABSENT

None

POLICE OFFICER
PRESENT

Scott Martin

OFFICERS PRESENT

C.K. Luster
Neal Beets

The Invocation was given by Dr. James E. Adams, Cornerstone Bible Church.

The Pledge of Allegiance was led by Tom Monsen, Troop #166.

1. Approval of minutes of previous meetings as written.

It was moved by Councilmember Giles, seconded by Councilmember Stapley, that the minutes of June 18, 20, 23, 24, and 27, 1997, be approved.

Carried unanimously.

2. Consider all consent agenda items.

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

It was moved by Councilmember Pomeroy, seconded by Councilmember Stapley, that the consent agenda items be approved.

Carried unanimously.

3. Consider the following liquor license applications:

*a. DON GORDON, AGENT

Location transfer Beer and Wine Bar License for Peter Piper Pizza, 2122 E. Baseline Road, Ste. D. This transfer is from Don Gordon, Agent, Peter Piper, Inc., 3208 E.

Bell Road, Phoenix to Don Gordon, Agent, Peter Piper, Inc., 2122 E. Baseline Road, Mesa.

4. Consider the following contracts:

- *a. Annual supply contract for ryegrass seed used by the Parks and Recreation Division and the Golf Courses.

The Purchasing Division recommends accepting the low overall bid by Garden West Distributors at \$57,250.00 plus 7.05% sales tax of \$4,036.12 for a total of \$61,286.12 based on estimated requirements.

- *b. 90 sign brackets as requested by Solid Waste & Facilities. The brackets will be installed on 45 refuse trucks and be used to hold signs which advertise various solid waste programs.

The Purchasing Division recommends accepting the only bid by Roadway Display, Inc. at \$20,250.00 plus 5% use tax of \$1,012.50 for a total of \$21,262.50.

Vice Mayor Gilbert noted that this agenda item has been continued to the August 4, 1997 Regular Council Meeting.

- *c. Eight replacement modular employee workstations as requested by the Customer Service Division.

Council is requested to authorize purchase from the State of Arizona contract with Goodman's Inc. for a total of \$21,476.97 including materials, design services, delivery, installation and applicable sales tax.

- *d. Video equipment for the Lower Council Chambers as requested by the Public Information Office.

The Purchasing Division recommends accepting the lowest overall bids as follows:

Troxell Communications for items 1-9 and 14 for a total of \$18,115.73 plus 7.05% sales tax of \$1,277.16 for a total of \$19,392.89; and

Burst Communications, Inc. for items 10-13 and 15-17 for a total of \$2,701.16 plus 7.05% sales tax of \$190.43 for a total of \$2,891.59.

The combined total is then \$22,284.48.

- *e. North Harris and East Hermosa Vista Drive Street Improvements.

This project consists of constructing street improvements on both Harris Drive from Hermosa Vista Drive to Lynwood Street and on Hermosa Vista Drive from Harris Drive to a point approximately 1300 feet east.

Recommend award to low bidder, Down to Earth Construction, Inc., in the amount of \$285,559.40. * * (See next page.)

****Vice Mayor Gilbert noted that at the Study Session, the Council modified this agenda item and recommends award to the low bidder, Down to Earth Construction, Inc., for the base bid award amount of \$119,893.65.**

*f. Alley Improvements North of Main Street, West of Robson.

This project consists of reconstructing an existing alley located one-half block north of Main Street and West of Robson.

Recommend award to low bidder, Down to Earth Construction, Inc., in the amount of \$56,159.70.

5. Introduction of the following ordinances and setting July 21, 1997 as the date for the public hearing on these ordinances.

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- *a. Amending the Zoning Ordinance relating to historic preservation, to the preservation of historic properties, buildings, structures, objects and landmarks by amending sections 11-12.1-1, 11-12.1-2, 11-12.1-4, 11-12.1-5, 11-12.1-7, 11-12.1-8, and 11-18-9; and by adding Title 11, Chapter 18, Mesa City Code Section 10 and adding Title 2, Chapter 22.
- *b. Amending Section 11-18-6 of the Mesa City Ordinance as it relates to zoning fees.
- *c. **Z96-95** The northeast corner of Hawes Road and Guadalupe Road. Rezone from AG to R1-7-PAD and conceptual R-3 and C-2 with a DMP overlay (155± acres). This case involves a development containing approximately 360 single residence lots and tracts for future multi-residence and commercial uses.
- *d. **Z97-25** The 800 through 1100 blocks of West Southern Avenue (south side). Site Plan Review (29± acres). This case involves a proposed retail power center and a concept for future hotel/office development. **CONTINUED TO THE JULY 21, 1997 REGULAR COUNCIL MEETING.**
- *e. **Z97-46** The northeast corner of Baseline Road and Vineyard. Site Plan Modification (9.9± acres). This case involves the development of a Fry's shopping center. Fry's Food Stores, owner; Kurt D. Reed Associates, applicant.
- *f. **Z97-52** The 3400 and 3500 blocks of East Broadway (south side). Rezone from C-2 to R-2-PAD (10.36 acres). This case involves the development of an 89 unit townhouse subdivision.
- *g. **Z97-53** The 2800 blocks of East Broadway (south side). Site Plan Review (6± acres). This case involves the development of an apartment complex.

- *h. **Z97-54** 546 North Vineyard. Rezone from R-4 to O-S (1± acres). This case involves rezoning of an existing legal non-conforming office.
- *i. **Z97-55** The 3100 block of East Main Street (south side). Site Plan Modification (1.31 acres). This case involves the development of a Maaco auto body/paint shop.
- *j. **Z97-57** East (300'±) of the northeast corner of Southern Avenue and Country Club Drive. Rezone from C-2 to M-1 (2,L acres). This case involves the expansion of American Bathtub Liners.
- *k. **Z97-59** Part of the 1700 block of North Center Street (west side). Rezone from R1-6 to R1-6-PAD (9± acres). This case involves the development of a 61 lot single residence project.

6. Consider the following resolutions:

- *a. Extinguishing a public utility easement at 1532 E. Juniper - Resolution No. 7072.

Property owner is requesting the extinguishment since the easement is not being used.
- *b. Extinguishing an easement for public utilities at 1729 E. Enrose Street – Resolution No. 7073.

Property owner is requesting the extinguishment since the easement is not being used.
- *c. Authorizing; the City Manager to sign an Intergovernmental Agreement with the Mesa Unified School District for the provision of Powell Area Community Center services for FY 1997-98 - Resolution No. 7074.
- *d. Authorizing the City Manager to enter into an Intergovernmental Agreement between Sonora Park Street Lighting Improvement District and the City of Mesa - Resolution No. 7075.

This District will be administered by Maricopa County. The assessment collected will be used to reimburse the City for the operation and maintenance cost of street lighting facilities within this subdivision.
- *e. Authorizing the City Manager to enter into an Intergovernmental Agreement between Wynstone II Street Lighting Improvement District and the City of Mesa – Resolution No. 7076.

This District will be administered by Maricopa County. The assessment collected will be used to reimburse the City for the operation and maintenance cost of street lighting facilities within this subdivision.

- *f. Authorizing the City Manager to enter into a sublease for communication purposes at 1833 West Southern Avenue - Resolution No. 7077.

This authorization will allow Sprint Spectrum to collocate their communications equipment on an existing City of Mesa tower.

- *g. Authorizing the City Manager to enter into an Intergovernmental Agreement with the Arizona Department of Library, Archives and Public Records for the purpose of receiving an increase in 1992 State Aid to Public Library Funds (Grant 92-A-17) - Resolution No 7078.

- *h. Authorizing; the City Manager to enter into an Intergovernmental Agreement with the Arizona Department of Library, Archives and Public Records for the purpose of receiving Major Urban Resource Library (Federal LSCA Funds (Grant 92-I-7-(4)) - Resolution No. 7079.

- *I. Authorizing the City Manager to accept and execute a grant offer from the U.S. Department of Transportation, Federal Aviation Administration, on behalf of Falcon Field Airport for airport improvements - Resolution No. 7080.

7. Consider the following ordinances:

- a. Relating to general penalties; repealing Title 1, Chapter 26, Mesa City Code; amending Title 1, Mesa City Code, by adding a new Chapter 26 - Ordinance No. 3363.

This ordinance will allow City judges to place corporations on probation and will increase the maximum possible fine from \$2,500 to \$20,000.

Jim Cavender, 1510 North 26th Street, stated the opinion that the proposed maximum possible fine increase is excessive and recommended that the fine be based upon 1% of corporations' gross sales or 1% of their net worth with a maximum fine of \$20,000.

Jeff Cox, 1507 East Julep Circle, spoke in favor of increased fines and stated the opinion that such increases will assist the City in Code compliance/enforcement endeavors. Mr. Cox also stated the opinion that a ten-day 'grace period' should be initiated to allow businesses an opportunity to comply with regulations prior to fine assessment.

In response to a request from Vice Mayor Gilbert, City Attorney Neal Beets briefly outlined the proposed ordinance and stated that the purpose of the revision is to encourage corporations and partnerships to comply with the law.

Marilynn Wennerstrom, 1112 North Center Street, stated the opinion that the proposed fine increase is exorbitant.

In response to questions posed by Ms. Wennerstrom relative to this agenda item, Mr. Beets noted that no schedule of misdemeanor sanctions exists and explained that a variety of circumstances must be considered in such cases. Mr. Beets advised that should the proposed ordinance be adopted, future ordinances will contain penalty clauses which stipulate that if you are an individual you may be charged a maximum fine of \$2500 and if you are a corporation, the maximum possible fine is \$20,000.

Mr. Beets clarified that the \$20,000 maximum possible fine will only be assessed in instances where the City Code does not provide for specific fines or penalties.

Councilmember Payne expressed the opinion that the proposed \$20,000 maximum is not sufficient to deter major corporations from violating the law.

In response to a question from Councilmember Payne, Mr. Beets advised that the \$20,000 maximum penalty amount is derived from State statute. Mr. Beets stated the opinion that the proposed ordinance represents a positive enforcement direction.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Pomeroy, that Ordinance No. 3363 be adopted.

Councilmember Payne commented that she will not vote in support of the ordinance and reiterated the opinion that the \$20,000 maximum fine is not sufficient to deter corporate violations.

Upon tabulation of votes, it showed:

AYES - Brown- Gilbert-Giles-Kavanaugh-Pomeroy-Stapley
NAYS - Payne

Mayor Brown declared the motion carried by majority vote and Ordinance No. 3363 adopted.

- *b. Pertaining to the Zoning Ordinance, amending Section 11-1-6 by modifying the definition of communication tower; amending Section 11-13-2 pertaining to the approval of a Special Use Permit for a communication tower intended for commercial purposes; amending Section 11-14-3 pertaining to the design guidelines for building and roof mounted communications equipment; and providing penalties for the violation thereof - Ordinance No. 3366.
- c. Annexing Guadalupe Road from Power Road to Hawes Road (23.9 acres), pursuant to an Intergovernmental Agreement between Maricopa County and the City of Mesa. (Case No. A97-2.) - Ordinance No. 3364.

In response to a request from Mayor Brown, Community Development Manager Wayne Balmer provided a brief explanation of the proposed annexation. Mr. Balmer explained that the City of Mesa will receive \$400,000 reimbursement from Maricopa County for the widening of Guadalupe Road. Mr. Balmer added that the funds will be used to cover the costs of the road widening and the City of Mesa will maintain the road in the future. Mr. Balmer noted that in order to provide fire and police services, the proposed annexation must occur.

Bill Brando, 61 South Macdonald, discussed the City's increased growth and demands on services. Mr. Brando expressed the opinion that annexations negatively impact the City of Mesa.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Stapley, that Ordinance No. 3364 be adopted.

Carried unanimously.

- *d. Relating to the Crime Prevention Advisory Board, amending Section 2-19-1 of the Mesa City Code - Ordinance No 3361.
- *e. Prohibiting parking on the west side of Harris Drive from University Drive to a point 142 feet south of University Drive, on the east side of Harris Drive from University Drive to a point 110 feet south of University Drive, on the north side of Juanita Avenue from Country Club Drive to Macdonald, and on Laguna Azul Avenue from Buttercup to a point 290 feet west of Buttercup; prohibiting parking from 10:00 p.m. to 4:00 a.m. on the west side of Solomon from Javelina Avenue to Isabella Avenue, on the east side of Solomon from Baseline Road to Isabella Avenue, and on Inverness Avenue from Solomon to Stapley Drive; all as recommended by the Traffic Safety Committee - Ordinance No. 3362.

8. Consider the following recommendations from the Utility Committee.

- *a. Consider approving a request for water service at 3121 North 78th Street (Parcel C).
- *b. Consider approving a request for water service at 3139 North 78th Street (Parcel F).
- *c. Consider approving a request for water service at 3145 North 78th Street (Parcel E).
- *d. Consider approving a request for sewer service at 5251 East Escondido, subject to the stipulations proposed by staff.
- *e. Consider approving a request for water service at 8112 East McDowell Road, subject to the stipulations outlined by staff.
- f. Consider approving a request for water service at 9615 East McKellips Road, subject to the stipulations outlined by staff.

Cynthia Rice, 9615 East McKellips Road, addressed the Council relative to a request submitted for water service to the property.

In response to a question from Mayor Brown, Public Works Manager Harry Kent stated that based upon a letter received from Maricopa County relative to this case, the issue should be referred back to the Utility Committee for further consideration.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Kavanaugh, that this matter be referred back to the Utility Committee for further consideration.

Carried unanimously.

9. Consider the following case from the Planning and Zoning Board and possible adoption of corresponding ordinance.

- a. **Z97-15** The 1600 - 1700 blocks of South 96th Street (east side). Rezone from R1-43 to R1-6-PAD (36± acres). This case involves the development of a 120 lot subdivision. Superstition Corporation, owner; Killian, Nicholas, Fischer, et.al. applicant. **A 3/4 VOTE**

**IS REQUIRED TO APPROVE THIS CASE. CONTINUED FROM THE JUNE 23, 1997
CITY COUNCIL MEETING - Ordinance No. 3365.**

P&Z Recommendation: Approval with Conditions (Vote 6 - 1).

1. Compliance with the basic development as shown on the preliminary plat and elevations submitted and as described in the project narrative, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code 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 requirements of the Subdivision Technical Review Committee; and
5. Delete at least one lot adjacent to the open space with staff review and acceptance.

Ralph Pew, 40 North Center Street, an attorney representing the applicant, informed the Council that following extensive discussions with residents in the adjoining subdivisions, the applicant is proposing that the following two stipulations be added to clarify issues and address neighbors' concerns: 1) the applicant agrees to record on the plat a non-vehicular access easement along the eastern boundary of the property. The easement will not be abandoned until such time as the association turns over control to the homeowners who have purchased lots in the new subdivision and until an 80% super-majority vote of the abandonment has been reached; and 2) the applicant agrees that if the City elects to abandon the right-of-way on 96th Street at the extreme north end of the project, which adjoins the freeway, the applicant will improve half of the right-of-way deeded to the applicant as open space within the subdivision and will provide a wall along the northern boundary to the halfway point of 96th Street. If the City elects not to abandon 96th Street, the applicant agrees to grade the 96th Street right-of-way and install minimal landscaping at that location.

Mr. Pew added that staff and the Planning and Zoning Board recommend approval and urged the Council to support the applicant's request.

In response to a request from Mayor Brown, Community Development Manager Wayne Balmer briefly discussed the issue of abandonment and recommended that the applicant's proposed abandonment of the eastern boundary be coordinated with the western section of the property which would result in open space throughout the entire area. Mr. Balmer added that in response to Council direction, the two added conditions listed above may be incorporated into Zoning Condition Number 4 (compliance with all requirements of the Subdivision Technical Review Committee).

James Hull, 9548 East Impala, representing the Sierra Ranch property owners, indicated that the applicant's revised proposal is acceptable to the homeowners. Mr. Hull added that the homeowners' previously filed protest in opposition to the case is officially withdrawn.

Councilmember Kavanaugh commended everyone involved on their efforts to arrive at a mutually acceptable solution to stated concerns.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Stapley, that Ordinance No. 3365, containing the two added conditions of approval to be incorporated into Zoning Condition No. 4 by the Subdivision Technical Review Committee, be adopted.

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Mayor Brown expressed appreciation to Sierra Ranch homeowners for their efforts in resolving concerns.

Carried unanimously.

10. Adjournment.

It was moved by Councilmember Giles, seconded by Councilmember Pomeroy, that the Regular Council Meeting adjourn at 6:42 p.m.

Carried unanimously.

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 Regular Council Meeting of the City Council of Mesa, Arizona, held on the 7th day of July 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 6th day of August 1997

BARBARA JONES, CITY CLERK