

COUNCIL MINUTES

January 18, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on January 18, 2005 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones
Debbie Spinner

Invocation by Jim Baugh, Mesa Baptist Church.

Pledge of Allegiance was led by Michael Richmond, Boy Scout Troop 454.

Mayor Hawker noted that many citizens were present to address agenda item 7a. He requested that these individuals meet with Assistant to the Mayor Heidi Gast outside the Council Chambers to appoint a spokesperson to represent each subdivision and/or neighborhood group. Mayor Hawker noted that although the official public comment occurred at the November 15, 2004, Council Meeting, each spokesperson would have six minutes in which to express the views of the group.

Mayor's Welcome.

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

Debra Raedar, Commerce Director of Workforce Policy for the State of Arizona, presented Mayor Hawker with a certificate from the Arizona Department of Commerce in recognition of the fact that seven square miles of west Mesa has been designated as an Enterprise Zone. She noted that the Enterprise Zone designation enhances the opportunities for private investment in the area.

1. Consider all consent agenda items.

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

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

Carried unanimously.

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

Minutes from the December 20, 2004, January 3, 13, 2005 Council meetings.

3. Consider the following liquor license applications:

*a. CHRIS MATTHEW CARPENTER, PASTOR

Special event application of Chris Matthew Carpenter, Pastor, Christ the King Catholic Church, a one-day charitable event to be held Saturday, January 29, 2005 from 12:00 noon to 4:00 p.m. at 1551 E. Dana Avenue. District #4.

*b. KAREN LINETTE GRONWALD, COORDINATOR OF FACILITATORS

Special event application of Karen Linette Gronwald, Coordinator of Facilitators, St. Bridget Catholic Church, a one-day charitable event to be held Friday, February 4, 2005 from 6:00 p.m. to 10:00 p.m. at 2213 N. Lindsay Road. District #5.

c. RANDY D. NATIONS, AGENT

Person and Location Transfer Beer and Wine Bar for D'Vine Wine Bar & Bistro LLC, 2837 N. Power Road, Suite 101. This is new construction. This is a Person and Location Transfer from Gerald E. Huse, Agent, Wine Merchant LLC at 4242 E. Chandler Blvd., Suite #3, Phoenix. This license will transfer to the applicant. District #5.

Councilmember Griswold declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

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

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

*d. KENAN ARKAWI, INDIVIDUAL

Person Transfer Liquor Store for Westwood Liquors, 427 N. Alma School Road. This is an existing business. The Liquor Store License previous held at this location by Mohini M. Hutchins, Individual, Westwood Liquors will transfer to the applicant. District #1.

*e. PAWAN KUMAR SETHI, AGENT

New Beer & Wine Store License for Country Club Chevron, 414 W. Guadalupe Road. This is an existing business. The Beer & Wine Store License previously held at this location by Troy Jack Lane, Agent, Lane Petroleum, Inc., will revert back to the State. District #3.

*f. PAUL J. O'NEILL, AGENT

New Restaurant License for Indigo Joe's Sports Pub and Restaurant, 2855 N. Power Road, Suite #101. This is new construction. No previous liquor licenses at this location. District #5.

*g. MARK STEVEN RUSSELL, AGENT

New Restaurant License for Oregano's Pizza Bistro, 1130 S. Dobson Road. This is an existing building. The Bar License previously held at this location by Charles Edwin Misfeldt, Agent, Gallagher's, Inc., will remain with Mr. Misfeldt. District #3.

4. Consider the following contracts:

- *a. Three-year supply contract for manhole insecticidal coating as requested by the Utility Operations Division.

The Purchasing Division recommends accepting the low bid by Jabco, Inc. at \$42,261.12 based on estimated annual requirements.

- *b. Audio Visual Equipment, Fabricated Wood and Metal Work Tables and Storage Devices and Eight Pianos for the new Mesa Arts Center.

The Purchasing Division recommends the following:

Accepting the bid from Ford Audio-Video Systems at \$101,337.41 for audiovisual equipment;

Authorizing purchase from the State of Arizona contract with Arizona Corrections Industries at \$25,607.17 for fabricated wood and metal worktables and storage devices;

Accepting the bid from Washburn Piano Company for 8 pianos at \$204,216.32.

The combined award is then \$331,160.90.

- c. Bus Pullout and Shelter at Various Locations, City of Mesa Project No. 00-46.2.

This project installs bus pullouts and shelters at various locations throughout the City in an effort to enhance transit facilities for riders and improve system operations. This phase will relocate 1 existing shelter, install 3 existing shelters currently in storage, install 1 new shelter and construct 3 bus pullouts with new shelters.

Recommend award to low bidder, Krisdan Company, in the amount of \$231,035.50 plus an additional \$23,103.00 (10% allowance for change orders) for a total award of \$254,138.50.

Mayor Hawker declared a potential conflict of interest on items 4c, d, f and h and said he would refrain from discussion/participation in these agenda items. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

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

Upon tabulation of votes, it showed:

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

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

- d. Desert Wells Zone 24" Waterline and Desert Sage 20" Waterline Power Road to Desert Sage Reservoir No. 1, City of Mesa Project No. 02-025.2.

This project will install approximately 1,500 linear feet of the 24" water transmission main and 3,200 linear feet of 20" transmission main between Power Road, and their respective reservoirs. This project represents the final segments of both transmission lines to be installed by the City.

Recommended award to low bidder, Archon, Inc., in the amount of \$2,670,360.00 plus an additional \$267,036.00 (10% allowance for change orders) for a total award of \$2,937,396.00.

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

Upon tabulation of votes, it showed:

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

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

- *e. Falcon Field South Perimeter Security Fence, City of Mesa Project No. 02-016-002.

This project will install, replace and/or repair approximately 3,417 linear feet of substandard fencing in the southeast corner of the airport to enhance the overall safety and security at the Falcon Field Airport.

Recommend award to low bidder, Allied Fencing, in the amount of \$87,800.70 plus an additional \$8,780.00 (10% allowance for change orders) for a total award of \$96,580.70.

- f. Water Meter Vault Reconstruction, City of Mesa Project No. 01-603-001.

This project will rehabilitate six existing underground water meter vaults within the City of Mesa water distribution system.

Recommend award to low bidder, Atlantis Construction, in the amount of \$75,415.00 plus an additional \$7,541.00 (10% allowance for change orders) for a total award of \$82,956.00.

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

Upon tabulation of votes, it showed:

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

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

- *g. New and replacement vehicles for the Planning Division, the Electric Division, Facilities Maintenance and Mesa Arts Center.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$128,745.55.

- h. Mesa Town Center Streetscape Improvements – Phase 5, City of Mesa Project No. 01-213-001.

This project will install improvements to create a more pedestrian friendly environment, add new landscaping, street furniture, and improve lighting and directional signage.

Recommend award to low bidder, Valley Rain Construction Corporation, in the amount of \$1,872,928.75 plus an additional \$187,292.00 (10% allowance for change orders) for a total award of \$2,060,220.75.

Councilmember Rawles expressed opposition to the improvements and said that the project benefits only the downtown area. He added the opinion that the project cost is excessive.

Councilmember Griswold noted that although he originally opposed the project, he would support the improvements due to the fact that the original costs have been substantially reduced and because of the City's contractual obligations to the developer of One Macdonald Center. He noted that in his discussions with small business owners in the area, they expressed concern relative to signage and parking issues and the length of time that the street would be closed during construction. Councilmember Griswold requested that staff address those issues to ensure that the concerns of the area businesses are addressed.

Councilmember Thom expressed opposition to the project for a number of reasons including the following:

- The total cost of the project is excessive.
- The price of \$7,600 for 8 trash receptacles is too high.
- The developer of One Macdonald Center is paying 80 cents per square foot for property valued at \$5 per square foot.
- Other area businesses will be negatively impacted by the traffic restrictions during construction.

Councilmember Thom agreed that the sidewalk and the street require improvements, but she stated the opinion that the cost and the extent of the project were excessive.

In response to Vice Mayor Walters' request for detailed information on the trash receptacles, City Engineer Keith Nath explained that the price of \$7,800 per receptacle includes the cost of material plus preparation and installation. He noted that each receptacle would be chain locked to a reinforced concrete pad in order to prevent theft and vandalism.

Vice Mayor Walters noted that the project was initiated several years ago, but it was delayed due to the construction at One Macdonald Center. She noted that the curbs and gutters in that area, originally constructed in the 1930's, presently pose a safety issue. Vice Mayor Walters also noted that substantial cuts have been made to the original proposal.

Mr. Nath confirmed that approximately \$260,000 was eliminated from the original proposal for streetscape improvements.

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

5. Introduction of the following ordinances and setting February 7, 2005, as the date of public hearing on these ordinances:

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

Prohibiting Left Turns from Driveways: 10-3-15 (B)

The north side of McKellips Road from driveway with centerline approximately 152 feet east of June Street (McKellips Road west of Recker Road, Council District 5).

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

On the south side of Baywood from a point 1,015 feet west of Power Road to a point 1,855 feet west of Power Road (north of Broadway Road and west of Power Road, Council District 5).

On the south side of McLellan Road from Power Road to a point 270 feet west of Power Road and on the north side of McLellan Road from Power Road to a point 100 feet west of Power Road (north of Brown Road and west of Power Road, Council District 5).

Speed Limits: 10-4-5 (35 mph) and 10-4-6 (30 mph)

Reducing the speed limit from 35 mph to 30 mph on 1st Street from Country Club Drive to Mesa Drive (Town Center Area, Council District 4).

- *b. **Z04-107 (District 4)** 500 West Southern Avenues, Suite 33. Located west of Country Club Drive and north of Southern Avenue (3.90 ac). Council Use Permit. This request is for a modification to Ordinance #4163. Taschner Center Partners, applicant, Larry S. Lazarus, applicant.
- *c. **CUP03-002TC (District 4)** 120 West 1st Avenue and 27 South Robson. Located east of Robson Street and north of 1st Avenue. Council Use Permit. This is a request to amend ordinance no. 4062. Freedom Arizona Newspaper Inc., applicant.

6. Consider the following resolutions:

- a. Adopting the Citizen Participation Plan for the following Federal grant programs: Community Development Block Grant (CDBG); Home Investment Partnerships (HOME); Emergency Shelter Grant (ESG); and American Dream Down Payment Initiative (ADDI) – Resolution No. 8400.

Councilmember Thom stated that she requested the removal of items 6a, b, h and i from the consent agenda. She explained that the subject Federal funds are taxes paid by individuals to the Federal government, which are then reallocated to the cities and states in the form of revenue sharing. Councilmember Thom further stated that the City administers the Federal funds that are reallocated to private, non-profit organizations. She noted that the City often utilizes the Federal funds to purchase property for use by a non-profit organization, and the property is signed over to the organization at a later date.

Councilmember Thom expressed the opinion that the City should not be in the “charity business,” and she reported that Save the Family, a non-profit organization, owns millions of dollars worth of real estate within the City of Mesa. She further stated the opinion that charities should not be supported by tax dollars.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that Resolution No. 8400 be adopted.

Councilmember Griswold stated that the programs were successful in their efforts to help families, and therefore he would support the motion. He noted that President Bush recognized the achievements of the "Housing for Mesa" program during a recent visit to Mesa.

Vice Mayor Walters stated that our taxpayer dollars were sent to Washington, D.C., and she would prefer that Mesa's tax dollars were returned to the City of Mesa rather than being distributed to another state or community.

Councilmember Rawles advised that he continues to have the same philosophical objections to the subject programs as he has expressed in the past; however, he concurred with Vice Mayor Walters that Mesa should comply with the "rules of the game." He expressed the opinion that it would be unwise for the City to refuse to accept the Federal funds.

Councilmember Jones stated that he agreed with Vice Mayor Walters and Councilmember Rawles. He further stated that the subject funds are City of Mesa tax dollars that are being returned to the City, and that the City should continue to participate in the programs.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8400 adopted.

- b. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with Maricopa County and other participating jurisdictions for the continued participation in the Maricopa Home Consortium – Resolution No. 8401.

It was moved by Councilmember Jones, seconded by Vice Mayor Walters, that Resolution No. 8401 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8401 adopted.

- *c. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the State of Arizona Department of Transportation and the City of Mesa for landscape maintenance along the Santan Freeway from Elliot Road to Baseline Road. (ADOT JPA 04-085) – Resolution No. 8393.
- *d. Extinguishing a portion of a Public Utility Easement located at 1142 W. Guadalupe Road – Resolution No. 8394.

This easement is no longer required.

- e. Authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Governor's Office of Highway Safety providing funds to pay overtime for officers to educate and enforce safety belt use – Resolution No. 8402.

Councilmember Rawles commented that seatbelts have been available for a long period of time, and he expressed the opinion that further education on the subject was not necessary.

Mayor Hawker noted that the \$10,000 grant includes a provision for seatbelt inspection, and he asked a member of the Police Department to provide clarification.

Lieutenant Ben Kulina advised that a portion of the grant addresses officer assistance relative to the proper installation and inspection of child safety seats. He added that other portions of the grant would enable officers to observe and document the use of seatbelts at intersections identified as having a high number of traffic accidents.

Mayor Hawker concurred with the comments of Councilmember Rawles, and he asked if there was other justification for the program.

Lieutenant Kulina advised that the Police Department has participated in this program for the past four years, and that the program is utilized in conjunction with the national "Ticket or Click It" campaign. He noted that seatbelt use has increased as a result of the program.

Mayor Hawker stated that Arizona does not have a primary seatbelt enforcement law, and therefore traffic stops could not take place unless another type of violation occurred as well.

Lieutenant Kulina advised that an officer would base a traffic stop on a different violation.

Mayor Hawker expressed the opinion that the funds could be better utilized for an educational campaign rather than paying overtime to an officer to observe an intersection.

Councilmember Thom stated the opinion that the use of this grant was an attempt to enable police officers to enforce a seatbelt law that does not presently exist, and therefore she would not support the item. She also noted that unsuccessful efforts have been made to have the State Legislature enact a primary seatbelt enforcement law.

Mayor Hawker stated that he disagreed with Councilmember Thom's statement due to the fact that the grant of \$10,000 would not enable primary seatbelt enforcement.

Lieutenant Kulina confirmed that the grant would not permit primary seatbelt enforcement by the Police Department.

Vice Mayor Walters expressed the opinion that some citizens do require additional education regarding the advantages of wearing a seatbelt, particularly newly licensed drivers. She also noted that the issue of properly installing child safety seats is very important. Vice Mayor Walters stated that the Council has not supported proposed State legislation that would enable primary enforcement of the seatbelt regulation, and that the subject agreement is not an attempt to circumvent the law.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Resolution No. 8402 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8402 adopted.

- *f. Authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Criminal Justice Commission Oversight Council on Driving or Operating Under the Influence Abatement to provide supplemental overtime for enhanced DUI enforcement – Resolution No. 8395.
- g. Authorizing the City Manager to execute an agreement between the City of Mesa and Prehab of Arizona, as partners in grant funding from the Governor’s Office For Children, Youth and Families to provide counseling, crisis intervention and youth services – Resolution No. 8403.

Councilmember Whalen declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

It was moved by Councilmember Jones, seconded by Vice Mayor Walters, that the Resolution No. 8403 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 8403 adopted.

- h. Supporting the application for Affordable Rental Movement (ARM) of Save the Family and Housing for Mesa (HFM) to the Maricopa Home Consortium for funding through the Federal Home Investment Partnerships Community Housing Development Organization (CHDO) Program – Resolution No. 8404.

It was moved by Councilmember Jones, seconded by Vice Mayor Walters, that Resolution No 8404 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8404 adopted.

- i. Supporting the application of the Affordable Rental Movement (ARM) of Save The Family Foundation of Arizona to the Maricopa Home Consortium for funding through the Federal Home Investment Partnerships Community Housing Development Organization (CHDO) Program – Resolution No. 8405.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Resolution No. 8405 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8405 adopted.

- *j. Extinguishing two drainage easements on the plat of The Village at Las Sendas, located at the northeast corner of Power and McDowell Roads – Resolution No. 8396.

These easements are no longer needed.

- *k. Extinguishing all easements in the original plat of Bella Vista Phases I, II and III located in the 4600 block of South Mountain Road – Resolution No. 8397.

The easements are no longer necessary as this area has been re-platted as Gila River Ranches Units I, II & III.

- *l. Vacating all rights-of-way in the original plat of Bella Vista Phases I, II & III located in the 4600 block of South Mountain Road – Resolution No. 8398.

The rights-of-way are no longer necessary as this area has been re-platted as Gila River Ranches Units I, II & III.

- *m. Deleted.

- *n. Approving and authorizing the City Manager to execute agreements for the development, installation, operation and maintenance of a digester gas processing plant project at the 91st Avenue Wastewater Treatment Plant – Resolution No. 8399.

7. Review and consider adoption of the following resolution.

- a. **GPMajor 04-01** Consider a resolution to amend the General Plan land use map from Mixed Use/Residential (30 % at 15+ du/ac) to Medium Density Residential 2-4 (2-4 du/ac), Medium Density Residential 6-10 (6-10 du/ac), High Density Residential 10-15 (10-15 du/ac), Office and Community Commercial for approximately 314.5 ± acres generally located south of Thomas Road between Val Vista Drive and Lehi Road. Various owners; Paul Gilbert; Beus Gilbert PLLC, applicant – Resolution No. 8406.

P&Z Recommendation: 3 Approval (Boardmembers Cowan, Adams and Esparza), 3 Denial (Boardmembers Saemisch, Carpenter and Finter). (Vote 3-3-1; Mizner absent).

Mayor Hawker stated that the Council would hear speakers in the following order: the applicant, group and neighborhood representatives, company representatives, and staff.

Paul Gilbert, 4800 North Scottsdale Road, representing the applicant, stated that he would not repeat the information provided to the Council at the November 15, 2004 meeting. He advised that since that meeting, additional negotiations with New West Materials have resulted in an agreement that improves the compatibility of the proposed residential project and the adjacent existing mining operation. Mr. Gilbert listed a number of facts that support approval of the proposed project:

- Citrus farming is no longer profitable for the subject property.
- The current General Plan designation of Mixed Use/Residential is not feasible.
- Neighboring property owners support the project:
 - Pleasant Grove Homeowners Association.
 - Lehi Community Improvement Association.
 - North Country Acres.
 - New West Materials.
- The developer has committed to maintain a citrus theme in the open space.
- A significant number of single-family developments of up to four units per acre already exist in the area immediately to the south of the proposed development.
- Annexation and development of the property will limit the expansion of sand and gravel mining operations within Mesa's residential neighborhoods.
- The proposal represents a significant traffic reduction from the current General Plan.
- An elementary school site will be reserved for the School District.
- Sewer lines will also serve many other developed properties in the area.

Mr. Gilbert advised that if the Major Plan Amendment were approved, the developer would file applications for a Minor General Plan Amendment, rezoning and annexation. He stated that both the current property owner and William Lyon Homes have made an unequivocal commitment to file the Minor Plan Amendment. Mr. Gilbert noted that the City has the ultimate control, and he added that the City has the ability to file a Minor General Plan Amendment in the event the developer fails to follow through on his commitment.

Mr. Gilbert reported that the proposed density has been lowered to approximately 3.8 units per acre, which is a lower density than the project immediately to the south. He added that the proposed density represents a 48 percent reduction from the original proposal.

Addressing the issue of residential housing and mining operation compatibility, Mr. Gilbert advised that negotiations with the mining operation immediately adjacent to the subject property, New West Materials, resulted in the following commitments:

- The developer will install a ten-foot sound wall along New West's west property line and a twelve-foot sound wall along New West's north property line.
- The developer will maintain a 100-foot buffer from the mining operation.
- New West has agreed to relocate the asphalt mix plant to the floor of the existing gravel pit at least 100 feet from the property line, which effectively provides a 200-foot buffer from the most intense mining use.
- New West has already moved the crusher into the bottom part of the mine, and they have agreed that the crusher will remain at that location.
- New West has committed to pave the access roads to the mine and post speed limit signs.
- New West will adjust and filter lighting in an attempt to minimize the impact on neighbors.
- William Lyon Homes and New West have agreed on precise language for a disclosure statement regarding mining operations, and they have agreed to record the disclosure statement so that each subsequent purchaser has full disclosure.
- The developer commits to duplicate the sound wall and other measures necessary to buffer the future Cemex Mine to the west of the development.

Mr. Gilbert summarized that the majority of impacted neighbors support the proposed project. He added that the additional issues raised by the Council have been addressed, and he requested that the Council approve the General Plan Amendment.

In response to a question from Councilmember Jones, Mr. Gilbert confirmed that the agreement between the developer and New West Materials is a signed, written document.

Eddie Strong, 2505 East Lehi Road, #15, representing the Pleasant Grove Homeowners Association and the Citrus Walls Subdivision, expressed approval for the project, and stated the opinion that the proposal represents an improvement to the General Plan.

Mr. Strong represented the individuals listed below who completed cards in support of the General Plan Amendment:

Lawrence K. Anderson, 2505 E. Lehi Road, #10
Giles W. Meas, 2505 East Lehi Road, #16
Stephen L. Nielson, 2505 East Lehi Road, #2

Bill Burke, 3450 East Menlo, stated that he was present on behalf of the Hermosa Homeowners Association and the Citrus Homeowners Association to speak in opposition to the project. He advised that the groups he represents are opposed to the development for the following reasons:

- The proposal does not comply with the General Plan.
- The proposed density is too high.
- The development will negatively impact the existing property values.
- The roads cannot accommodate the traffic that will be generated by the development.
- The mines will continue to be a source of litigation that will involve the City of Mesa.
- The cost to construct an additional school will be an expense to the citizens of Mesa.

The following citizens completed cards expressing opposition to the proposal, and they designated Mr. Burke as their spokesperson:

John Clemons, 2511 North Vista
Kathleen Clemons, 2511 North Val Vista
Cindy Dale, 2113 North Maple Street
Rick Dale, 2113 North Maple Street
Bedford Douglass, Jr., 3634 East Oasis Circle
Michael Hazel, 3431 East Norwood Circle
Barbara Henderson, 3640 E. Pomegranate Street
Dina Higgins, 2341 North Lemon Circle
John Higgins, 2341 North Lemon Circle
Cora M. Lenz, 3717 East Pomegranate Street
Lewis C. Lenz, 3717 East Pomegranate Street
John R. Miilu, 3445 East Norwood Circle
Linda Miritello, 2575 North Val Vista
Scott Miritello, 2575 N. Val Vista
Jerry Nothman, 3435 East Mallory Circle
Pat Richards, 3618 East Pomegranate Street
Cathy Wrigley, 3541 East Minton Street
Craig Wrigley, 3541 East Minton Street

Clark Richter, 30 West 1st Street, advised that he has represented the Engel and Burden families in litigation against the mines for several years. He stated that failure to approve the subject General Plan Amendment would create the likely possibility that mining operations will be expanded. Mr. Richter noted that Lyon Homes came forward with a proposal for the property two years ago at a time when no other interest in the property existed. He added that approval of the Amendment would extend utilities to many existing homes in addition to the new development.

Mr. Richter spoke on behalf of the following citizens who were present at the meeting and completed cards indicating support for the General Plan Amendment:

Lisa Burden, 3404 North Val Vista
Todd Burden, 3404 North Val Vista
Janelle Engel, 3001 East Lehi Road
John Engel, 7542 East Camino Amistoso, Tucson, Arizona
Rebecca Engel, 3001 East Lehi Road
Rodney Engel, 3001 East Lehi Road
Clay C. Layton, 2305 E. Inglewood Street

Rulon Anderson, 655 North Roanoke Drive, a resident of the Citrus Walls Subdivision, noted that many residents of the neighborhood would prefer a development with a lower density, but he expressed support for the General Plan Amendment due to the fact that the Amendment limits expansion of the mining operations.

Olivia Ortiz, 2223 East Riverdale Street, a seventh grade student at Tempe Preparatory Academy, stated that she was present to express support for the General Plan Amendment. She advised that her grandparents experienced many health problems as a result of living next to a mining operation, and she expressed the opinion that building homes on 315 acres was preferable to expanding the mining operation on that property.

Michelle McCroskey, 3021 North Chestnut Circle, representing North Lehi, expressed support for the General Plan Amendment due to the fact that future mining operations in the area will be restricted and that the proposed density is an improvement to the present General Plan designation of Mixed Use/Residential.

The following individuals completed cards indicating support for the General Plan Amendment, and they designated Ms. McCroskey as their spokesperson:

Steffani Bonteins, 2134 East Riverdale Street
Deniece Burden, 3325 North Val Vista
Dianne Burden, 3325 North Val Vista
Duaine Burden, 3325 North Val Vista
Raymond Burden, 3325 North Val Vista
Michele DeVito, 2164 East Riverdale Street
Phil DeVito, 2164 East Riverdale Street
Leslie Hansen, 3360 North Chestnut
Bret Judd, 3325 North Val Vista
Raenada Judd, 3325 North Val Vista
Elizabeth Ortiz, 2223 East Riverdale
Beverly Self, 3414 North Ashbrook
Eugene Thomas, 2262 East Virginia
Rebecca Thomas, 2262 East Virginia
Jack Warden, 2343 East Riverdale Circle
Fred Whiting, 2342 East Riverdale Circle

Brian Campbell, 234 East Northridge, stated that residents in Tyler Farms have been a part of the City of Mesa for 20 years, but the area has not been connected to City utilities due to the expense of extending service to the area. He expressed support for the proposed project that would extend utility services to the area, and he also praised William Lyons Homes for their commitment to cooperating with residents in order to address historic preservation issues and plan open space, parks and trails.

Larry Lazarus, 420 East Roosevelt, representing Cemex, stated that his client has concerns regarding the compatibility of residential development and mining interests. He stated that if the General Plan Amendment were approved, Cemex would like to be assured that their firm would have the same types of protections mentioned earlier by Mr. Gilbert relative to noise mediation for future residential neighbors. Mr. Lazarus noted that his firm does not have a written agreement with the applicant. He added that Cemex would continue to meet with the neighbors of their existing mining operation to address issues.

John Christian, 201 East Washington, representing New West Materials, confirmed that earlier comments by Mr. Gilbert and Mr. Richter were correct regarding the agreement reached between his client and the developer, and he expressed support for the General Plan Amendment.

Keith Skousen, 2505 East Lehi Road, #7, a resident of Pleasant Grove, spoke in support of the General Plan Amendment, and he added that the residents most affected by the Amendment are in support. Mr. Skouson advised that he also spoke on behalf of Danette Skouson of the same address.

The following individuals completed cards in support of the General Plan Amendment, but indicated that they did not wish to address the Council:

Hal Fredrickson, 2505 East Lehi Road, #12
Cyril E. Mamola IV, 2505 East Lehi Road, #14
Marjorie Winslow, 6616 East Sugarloaf
Richard K. Winslow, 6616 East Sugarloaf

Mayor Hawker thanked members of the audience for appointing spokespersons to present their views and concerns in a timely manner. He stated that Mr. Gilbert, as the applicant's representative, would have the opportunity to offer some brief closing remarks.

Mr. Gilbert stated the opinion that general agreement exists that the present General Plan designation for the area is not appropriate, and that a change is required. He acknowledged that the item before the Council allows a higher density than the plan being discussed, but he reiterated the developer's commitment to file a Minor Plan Amendment that would reduce the project's density. Mr. Gilbert addressed the traffic concerns by noting that the proposed reduction in density reduces by 50 percent the amount of traffic that could be generated by the existing General Plan. He also stated that the developer has committed to negotiate with Cemex in order to reach what Mr. Gilbert termed a "New West" type of settlement. Mr. Gilbert noted that Mr. Lazarus' statements indicate that Cemax is willing to participate in negotiations.

Mr. Gilbert corrected a statement that he made earlier regarding the fact that the agreement with New West was signed by both parties. He stated that New West's representative, Mr. Christian, advised him that New West representatives have not yet signed the agreement. Mr. Gilbert added that Mr. Christian stated on the record at this meeting that both parties consider the agreement to be binding and in full force. He expressed the opinion that this was a technicality, but he wanted to provide complete and honest information to the Council.

Planning Director John Wesley advised that the General Plan designation for this location is Mixed Use/Residential in order to meet the City's overall vision for sustainability by providing a mix of jobs and housing. He noted that many proposals and changes to the original application have been discussed at this meeting. Mr. Wesley advised that the only application that staff could consider is the original General Plan Amendment, and therefore staff recommends denial. He noted that the vote of the Planning and Zoning Board was 3 in favor and 3 opposed, and that approval of a Major General Plan Amendment by the Council requires five affirmative votes.

It was moved by Vice Mayor Walters, seconded by Mayor Hawker, that Resolution No. 8406 be adopted.

Vice Mayor Walters noted that consideration of the subject General Plan Amendment has been a difficult process, and that many residents have expressed concerns regarding the future of their community. She acknowledged that the Major General Plan Amendment being considered by the Council permits densities higher than those committed to by the developer, and she stated that if the developer fails to file the Minor Plan Amendment that has been discussed, the Council would take action to bring the Minor Amendment forward.

Vice Mayor Walters explained that her decision process first considered the residents in closest proximity to the proposed project who would experience the greatest impact. She added that her second consideration dealt with the impact on the broader community in terms of the mining operations and housing density. Vice Mayor Walters noted that the Major General Plan Amendment is the first step, and that additional issues will be addressed during the zoning and annexation process. She added that annexation is required in order to provide City services to the area. Vice Mayor Walters stated the opinion that a better product will result from the public comments, and she thanked the neighborhood residents for their input.

Mayor Hawker expressed support for the motion due to the fact that the proposed reduction in density is a substantial improvement, and he noted that the Council would have further opportunity for review when the zoning and annexation cases come forward for consideration. He also expressed approval relative to the fact that the disclosure statement will be recorded to ensure that future buyers are aware of the mining operation. Mayor Hawker stated the opinion that reexamination of the area indicates that the General Plan's designation for Mixed Use/Residential was not appropriate. He also noted that long-term problems could occur as a result of the mining operations if the property remained in Maricopa County, and he added that the proposal is a good compromise and an improvement to the existing General Plan.

Councilmember Rawles disclosed that he is presently an employee of the Johnson Stewart Company. He added that because Johnson Stewart does not own land in the area covered by the subject case, his consideration of this item does not pose a potential conflict of interest. Councilmember Rawles also noted that he has received numerous e-mails and although he has not responded to each message, he wanted to assure everyone that he has read the e-mails and taken the viewpoints into consideration. He noted that General Plans include an amendment process in order to make necessary adjustments, and he stated that he would support the subject application for the amendment.

Councilmember Griswold expressed regret that the subject property was not annexed into the City prior to the development of mining operations. He stated that he was opposed to allowing residential development at the end of an airport runway and next to M-1 industrial uses. Councilmember Griswold noted that he considered the Council's vote to be a lose/lose situation, and advised that he would not support the motion to approve the Major Plan Amendment.

Councilmember Thom stated that consideration of the Amendment has been difficult, and she thanked everyone who expressed his or her views to the Council. She noted that representatives from the Army Corps of Engineers involved in the Salt River Restoration project advised her that mining in the Salt River bed is incompatible with restoration. She also stated the opinion that mining interests are being forced to relocate in distant areas, which will increase

the price of building materials and negatively impact the local economy. Councilmember Thom noted that many residents indicated a preference for locating commercial development near the freeway, and she stated that she would be supportive of the proposal if more of the property was designated commercial and if the property had already been annexed into the City. Councilmember Thom added that when people purchase a new home, they do not consider the impact of disclosures regarding traffic or mining operations, but at a later date the situation results in complaints regarding noise and dust. Councilmember Thom stated that she would vote in opposition to the Major General Plan Amendment.

Councilmember Jones also thanked the citizens for their input regarding this issue. He noted that the compatibility issues with mines continue to exist, but he added that everyone involved is attempting to make the best of a less than perfect situation. Councilmember Jones stated that he would vote in favor of the motion in view of the fact that an overwhelming majority of the residents have expressed support for the project, and that the developer has committed to file a Minor Plan Amendment to reflect the reduced density.

In response to a question from Councilmember Whalen, Mr. Gilbert stated that flood control is not an issue with respect to the subject property.

Councilmember Whalen recalled that in approximately 1985, concern existed regarding possible flooding in the area where the river bends. He also questioned if the Council's approval of the Major General Plan Amendment, based on promises to file a Minor Plan Amendment, could result in legal problems.

City Attorney Debbie Spinner advised that the General Plan outlines the requirements for approval of an amendment. She noted that reasons for justifying the proposed Council action include the following:

- The Major Plan Amendment constitutes an overall improvement of the General Plan.
- The Major Amendment is consistent with the intent of the General Plan and other adopted plans, policies and ordinances.
- The Major Amendment will not adversely impact the community as a whole or a portion of the community by significantly altering existing land use patterns causing a significant increase of traffic on existing roadways and degrading the health and safety of the residents.

Ms. Spinner expressed the opinion that the Council's comments and discussion satisfy the provisions for approval of a General Plan Amendment.

Responding to a question from Councilmember Whalen regarding the densities and requirements of the existing General Plan, Mr. Wesley stated that the plan currently calls for Mixed Use/Residential, which allows 30 percent of the property to be residential development and that development is required to have at least 15 units per acre. He added that the other uses under this designation would be a variety of employment uses including retail, commercial, warehousing and office.

Mr. Gilbert responded to questions from Councilmember Whalen by stating that the original submission dated October 21, 2004, called for 71.8 acres of medium density (2 to 4), 113.2 acres of medium density (6 to 10), 106.4 acres of high density (10 to 15), 8.2 acres of office space and 14.9 acres of commercial. He also confirmed that an alternative plan proposed on the same date called for 155 acres of medium density residential (2 to 4), 136.4 acres of medium density residential (6 to 10) and the same number of acres for office and commercial development. Mr. Gilbert added that the present proposal calls for a density of 3.8 per acre with no change to the commercial component.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by the required 3/4 vote and Resolution No. 8406 adopted.

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

- *a. **Z04-94 (District 4)** 1511 South Mesa Drive. Located north of the Superstition Freeway and east of Mesa Drive (2.39± ac). Rezone from R1-6 to C-1 and Site Plan Review. This case is to allow for the development of a retail center. Venancio Macias, owner; Robert Gomez, applicant. CONTINUED FROM THE DECEMBER 6, 2004 CITY COUNCIL MEETING. THE APPLICANT HAS REQUESTED THAT THIS CASE BE CONTINUED UNTIL THE MARCH 21, 2005 CITY COUNCIL MEETING.

P&Z Recommendation: Approval with Conditions. (Vote: Passed 4-3 (Mizner, Cowan, Esparza voting nay))

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. No vehicular access to East Holmes Avenue from the subject property.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:49 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 18th day of January 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

baa