



## COUNCIL MEETING

November 17, 2003

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on November 17, 2003 at 5:50 p.m.

### COUNCIL PRESENT

Mayo Keno Hawker  
Rex Griswold  
Kyle Jones  
Dennis Kavanaugh  
Janie Thom  
Claudia Walters  
Mike Whalen

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

Invocation by Dr. James E. Adams, Cornerstone Church.

Pledge of Allegiance was led by the members of Boy Scout Troop # 564.

Mayor's Welcome.

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

Presentation from the Mesa Public Safety Foundation.

Former Mayor Wayne Pomeroy, President of the Mesa Public Safety Foundation, stated he was present to honor the following Mesa firefighters for their service during the recent fires in California, as well as fires in Arizona: Battalion Chief Warner Fleger, Captain Paul Dutra, Captain Glenn Crabtree, Engineer Gus Carboun, Firefighter John Leivas, and Firefighter Lon Eder. He commented that these individuals were instrumental in saving numerous homes and lives in the same area of California in which a firefighter lost his life.

Retired Fire Captain Alex Finter noted that the honorees have been trained in Wild Land Interface Fire Fighting under the direction of Battalion Chief Fleger. He commended the team for their courage and professionalism, and also acknowledged the stress that was placed on their families during that difficult time. Captain Finter, along with Mr. Pomeroy, presented plaques to each of the firefighters in recognition of their service.

In response to a question from Mayor Hawker, City Manager Mike Hutchinson explained that the City of Mesa responded to the California emergency by providing the firefighters as part of a relationship Mesa has with not only Arizona cities, but also communities throughout the country. He added that the City anticipates reimbursement from the Federal Emergency Management Agency (FEMA) for a significant portion of its expenses.

Mayor Hawker noted that the mobilization of many cities to assist in fighting the California fires was a real tribute to the United States.

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 Vice Mayor Kavanaugh, seconded by Councilmember Griswold, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the November 3, 6 and 13, 2003 City Council meetings.

3. Conduct a public hearing for the following Major General Plan Amendment:

- a. **GPMajor03-01- (District 6) Proposed General Plan Land Use Amendment: Medium Density Residential 2-4 (2-4 du/ac), Mixed Use/Residential (30% at 15+ du/ac) and Neighborhood Commercial for the area between Ellsworth and Signal Butte Roads, from Elliot Road north to the Power Transmission Lines (583± ac). **THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE DECEMBER 15, 2003 CITY COUNCIL MEETING. (2/3 vote required)****

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

Mayor Hawker advised that the applicant has requested a continuation of the case to the December 15, 2003 Council Meeting.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Case GPMajor-03-01 be continued to the December 15, 2003 City Council Meeting.

Discussion ensued relative to the fact that both the public hearing and the vote on the General Plan Amendment could be accomplished at the December 15<sup>th</sup> Council Meeting and that a 2/3 vote would be required for approval.

Mayor Hawker noted that he would not be present at the December 15<sup>th</sup> Council Meeting and expressed opposition to the General Plan Amendment.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

4. Conduct a public hearing concerning the Thomas and Recker Roads Scalloped Street Assessments Project #00-086.

This project installed street improvements along portions of Thomas Road from 56<sup>th</sup> Street to Recker Road and along Recker Road from Thomas Road to Preston Street. (See item no. 9d)

A portion of the project costs has been assessed to the adjacent property owners under the Scalloped Street Assessment Laws.

Mayor Hawker announced that this is the time and place for a public hearing concerning the Thomas and Recker Roads Scalloped Street Assessments Project #00-086.

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

5. Conduct a public hearing on the McDowell and Recker Roads Scalloped Street Assessments Project #01-005.

This project installed street improvements along portions of McDowell Road from Higley to Power Road and along Recker Road from McDowell Road to Preston Street. (See item no. 9e)

A portion of the project costs has been assessed to the adjacent property owners under the Scalloped Street Assessment Laws.

Mayor Hawker announced that this is the time and place for a public hearing on the McDowell and Recker Roads Scalloped Street Assessments Project #01-005.

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

6. Consider the following liquor license applications:

\*a. JAMES CHARLES WENHART, CHAIRMAN

Special Event License application of James Charles Wenhart, Chairman, Mesa Jaycees, a one-day civic event to be held Friday, December 5, 2003, from 5:00 p.m. to 1:00 a.m., at 260 W. Main Street.

b. CHARLES E. BACKUS, AGENT

New Government License for Williams Campus Union of Arizona State University East, 7001 E. Williams Field Road. This is an existing building. No previous liquor licenses at this location.

Mayor Hawker advised that several requests to address the Council have been received, and he requested that the individuals come forward when called.

Brandon Letner, 6842 E. Unger, stated that as a resident and the Scoutmaster for the Boy Scout Troup located on campus, he was present to express his opposition and concern that granting the license would endanger the children who reside in the neighborhood.

Derek Dossdall, 7049 E. Thistle Avenue, advised that he had a petition signed by 230 residents in opposition to the liquor license. At the request of Mayor Hawker, Mr. Dossdall presented the petition to the City Clerk. Mr. Dossdall stated that the signers of the petition view the liquor license as a threat to the safe family environment presently enjoyed by the community.

Mayor Hawker noted that Joshua Greer, 7262 E. Trent, submitted a card indicating his opposition to granting the liquor license, but did not wish to address the Council.

William Jury, 2575 E. Camelback Road, Phoenix, representing the applicant, commented that the Williams Field Campus has utilized Special Event Licenses for various fundraising events and community outreach programs. He noted that the liquor license being requested is in compliance with both State and City of Mesa laws, and added that this type of license is commonly utilized at other university campus locations within Arizona and across the country. Mr. Jury also stated that he and the applicant were unaware of any neighborhood opposition to the license prior to this meeting. He further indicated that the purpose of the application is to curtail the necessity of periodically applying for Special Event Licenses and added that when a new campus is constructed, a new license would be required for that facility.

Discussion ensued relative to the fact that the Campus was not planning to operate an establishment that regularly serves alcoholic beverages; that the license will be utilized for approximately five to eight special events per year; that the applicant has met the legal distance requirement of being at least 300 feet from a school or church, and that the Council would need a reason to recommend denial of the license to the State Liquor Control Board.

City Attorney Debbie Spinner provided the following examples of factors the State Liquor Control Board would consider in denying an application: if there are too many providers and the area is saturated; if the location is too close to a church or school; if the applicant has not properly filed the required documentation or paid the fees, or if the applicant is a convicted felon.

Further discussion ensued relative to the fact that the license currently being applied for would allow liquor to be served in conjunction with a meeting or special event; that the license is not for a bar operation that would be open to the public, and that other liquor licenses presently exist on the Williams Gateway Campus and in the surrounding area.

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

Carried unanimously.

Mayor Hawker acknowledged the presence of a group of visitors from Russia and welcomed them to the Council Meeting.

c. MATTHEW K. SHREEVE, AGENT

Person and Location Transfer License for Main Street Sports Grill, 260 W. Main Street. This is an existing business. This is a Person & Location transfer from Delores De La Cruz, Individual, Bricks at 2401 N. 32<sup>nd</sup> St., Ste. 1-3, Phoenix. This license will transfer to the applicant.

Councilmember Whalen declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

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

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

\*d. COLIN CAMPBELL, AGENT

New Restaurant License for Lucky Lou's, 1929 N. Power Road, Suite 104 & 105. This is an existing building. No previous liquor licenses at this location.

7. Consider the following contracts:

\*a. Ballistic/riot helmets as requested by the Police Department.

The Purchasing Division recommends accepting the low bid by Adamson Ind. at \$50,924.54 including applicable sales tax.

\*b. Queue Management System for the Mesa City Court as requested by the Information Services Division (ISD).

The Purchasing Division recommends accepting the only proposal from Q-MATIC Corporation, for a total of \$41,777.00, including applicable sales tax (**Sole Source**). (This item is fully grant funded by a grant from the Arizona Supreme Court).

c. Baseline Road 30-inch Water Line, Ellsworth to Crismon, City of Mesa Project 01-937-001.

This project will create a more reliable water distribution system by extending the transmission main in the Desert Wells Water Zone into this area. The extension will install nearly 4,500 feet of 30-inch waterline and short lengths of 8-inch and 16-inch waterline to tie to the existing system.

Recommend award to low bidder, Bison Contracting Company, in the amount of \$626,555.00 plus an additional \$62,655.50 (10% allowance for change orders) for a total award of \$689,210.50.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

- d. Water Line Replacement, Southern Avenue and Harris Drive Area, City of Mesa Project 01-573-001.

This project replaces nearly 10,600 feet of 8-inch waterline and 170 water service connections to improve water system reliability in the neighborhood bounded by Southern Avenue, Harris Drive, US 60 and Hall Street.

Recommend award to low bidder, B&F Contracting, in the amount of \$629,385.20 plus an additional \$62,938.52 (10% allowance for change orders) for a total award of \$692,323.72.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

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-Kavanaugh-Thom-Walters-Whalen  
NAYS - None  
ABSTAIN - Hawker

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

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

- e. 16-inch Water Line; Broadway Road, Crismon Road to the CAP Canal, and Southern Avenue, 105<sup>th</sup> Place to Signal Butte Road, City of Mesa Project 01-938-001.

This project will create a more reliable water distribution system by completing gaps in two distribution mains in the Desert Wells Water Zone.

Recommend award to low bidder, Arizona Valley Underground, in the amount of \$234,936.50 plus an additional \$23,493.65 (10% allowance for change orders) for a total award of \$258,430.15.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Kavanaugh for action on this agenda item.

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

8. Introduction of the following ordinances and setting December 1, 2003, as the date of public hearing on these ordinances:

- \*a. **Z03-50 (District 6)** 9355 East Southern Avenue, south and east of Southern Avenue and Ellsworth Road. 36.1± ac. Rezone from M-1 to R-2 PAD. This request is for the development of a residential subdivision. Will Cardon, owner; Sean Lake, Pew & Lake, P.L.C., applicant.
- \*b. **Z03-51 (District 5)** 6063 East Arbor Avenue, south and east of Main Street and Recker Road. (1.6 ac. ±) Rezone from C-3 to R-4 and Site Plan Modification. This request is for the expansion of an existing assisted living facility. Arbor Rose LLC, owner; Ron Genenbacher, Arbor Rose LLC, applicant.

9. Consider the following resolutions:

- \*a. Consider the use of eminent domain to acquire rights-of-way for bus pullouts and shelters. Project Nos. 00-46 and 00-46.2 – Resolution No. 8138.

Clear property title to four bus shelter and pullout locations is necessary for the City of Mesa to complete this project.

- \*b. Extinguishing a portion of a Public Utilities Easement at 101 East Ingram Street in the Pleasant Homes Subdivision Unit II – Resolution No. 8139.

This portion of the easement is no longer required.

- \*c. Granting an Easement to Salt River Project in the 10100 to 10400 blocks of East Southern Avenue – Resolution No. 8140.

- d. Approving the final Scalloped Street Assessments for Thomas and Recker Roads Scalloped Street Assessment Project #00-086 – Resolution No. 8146.

This project installed street improvements along portions of Thomas Road from 56<sup>th</sup> Street to Recker Road and along Recker Road from Thomas Road to Preston Street. A portion of the project costs has been assessed to the adjacent property owners under the Scalloped Street Assessment Laws.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that Resolution No. 8146 be adopted.

Carried unanimously.

- e. Approving the final Scalloped Street Assessments for McDowell and Recker Roads Scalloped Street Assessment Project #01-005 – Resolution No. 8147.

This project installed street improvements along portions of McDowell Road from Higley to Power Road and along Recker Road from McDowell Road to Preston Street. A portion of the improvement costs has been assessed to the adjacent property owners under the Scalloped Street Assessment Laws.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Whalen, that Resolution No. 8147 be adopted.

Carried unanimously.

- \*f. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between the First Assembly of God Church of Mesa, Inc. and the City of Mesa for regional improvements that are being constructed in conjunction with the development of a new Mesa Assembly of God Church located at 1303 South Lindsay Road – Resolution No. 8141.

- \*g. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Julio Gonzalez and Linda M. Gonzalez and the City of Mesa for regional improvements that are being constructed in conjunction with the

development of the Cambridge Academy located at 9412 East Brown Road – Resolution No. 8142.

- h. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Mesa Unified School District No. 4 for the disbursement of Indian gaming revenues received by the City of Mesa to assist Mesa Public Schools in providing after school and weekend recreational activities – Resolution No. 8148.

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

It was moved by Councilmember Griswold, seconded by Vice Mayor Kavanaugh, that Resolution No. 8148 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 8148 adopted.

- \*i. Extinguishing two drainage easements at 6242 East Arbor Avenue – Resolution No. 8143.
- \*j. Extinguishing a Public Utility Easement at 2918 South Alma School Road – Resolution No. 8144.
- \*k. Authorizing the sale of City property to Hazel W. Swartz Family Trust – Resolution No. 8145.
- l. Authorizing the sale of City property to D. R. Horton – Resolution No. 8149.

This is excess City-owned property located west of the southwest corner of Greenfield Road and Southern Avenue.

Councilmember Thom stated that this item was removed from the consent agenda at her request. She expressed support for the sale of City property that is not being used or has no planned future use, but noted that the subject property is presently being used for asphalt storage. Councilmember Thom suggested that the property could serve as a parking lot for those utilizing the sports practice fields in the retention basin located to the south of the property, as well as to provide access to the jogging paths that are planned as a part of the Maricopa County Canal System.

Real Estate Services Property Acquisition Supervisor Craig Crocker addressed the Council and explained that the City was required to build the retention basin in the early 80's as part of an Intergovernmental Agreement with the Arizona Department of Transportation (ADOT); that the retention basin is now owned and maintained by the City of Mesa; that the volume of the

retention basin must be retained, and that the proposal to fill in part of the retention basin for use as a parking lot will require excavation of another area of the basin in order to maintain the retention capacity.

In response to a series of questions from Mayor Hawker, Mr. Crocker confirmed that the proposal before the Council is to sell the City's 6-acre material storage yard to D. R. Horton for \$633,000, and in turn, the City would purchase the .70-acre parcel from D. R. Horton for approximately \$128,000 to be used for parking. He advised that the net proceeds of the transaction to the City would be approximately \$504,800.

In response to a question from Councilmember Thom, Parks and Recreation Management Support Administrator Tim Barnard advised that building trails along canals is accomplished by entering into a licensing agreement with the provider of the canal (either the Salt River Project (SRP) or the Central Arizona Project (CAP).) He explained that the agreement enables the City to install improvements along the canal, which generally consist of a multi-use, paved pathway, but the City does not own the property along the canals. Mr. Barnard added that if an existing City facility were adjacent to property along a canal, a parking lot could be provided.

Discussion ensued relative to the fact that the proposed parking lot location is sufficient to provide access to the canal; that the configuration of the land proposed to be sold to D. R. Horton is inadequate for ball fields; that the present use of the land that is proposed to be sold to D. R. Horton is used by the City for storing milling and sand that are transported by large dump trucks, and that maintaining the land for storage purposes could provide undesirable access to the nearby residential areas.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that Resolution No. 8149 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8149 adopted.

10. Consider the following recommendations from the Transportation Committee:

- \*a. Approving Alternative B as the preferred future alignment for Ray Road, that the City proceed with a survey of the properties where future right-of-way will be needed (Alternative Two).
- b. Approving Alternative One in which the City would fund staff time and neighborhoods would pay data collection and construction costs in connection with the construction of neighborhood speed humps.

Traffic Engineer Alan Sanderson explained that funding of speed humps has been subject to budget constraints in recent years. He advised that the Transportation Committee requested that staff prepare a range of options to fund the installation of speed humps. Mr. Sanderson reported that the option recommended by staff stipulated that the City would pay for data

collection and the residents would pay for the actual construction of the speed hump if the street qualified. He added that the option recommended by the Transportation Committee would require citizens requesting speed humps to fund the entire cost of data collection and construction.

Mr. Sanderson informed the Council that the cost for the installation of a speed hump is \$125 per location for a speed count (two locations per street is the norm); that construction costs range from \$2,200 to \$2,900 per hump; that to be effective, two humps per street are normally required; that the price variance depends on the number of humps to be constructed at one time; i.e., groups of ten or more would be charged at the lowest price; that the Fire Department stipulates which streets are fire routes and ineligible for the construction of speed humps, and that a resident survey is completed to make sure that neighbors support the installation of the speed humps.

Councilmember Whalen, as Chairman of the Transportation Committee, noted that slowing the speed of vehicles is a continual problem in Mesa.

Vice Mayor Kavanaugh recalled the history of speed humps in the City. He commended the value of the speed hump program to Mesa neighborhoods and expressed the hope that resolution of the present budget problems would enable funding of the program in the future.

Councilmember Walters stated that both City staff and the Council have raised concerns that a neighborhood could pay for the data collection and then be subsequently advised that the street or neighborhood was not eligible for speed humps; that the willingness of the neighborhood to pay for the speed humps did not guarantee approval of the construction, and that a neighborhood paying for speed humps might expect, but would not receive, a refund when economic conditions improved and the budget for this item was restored.

It was moved by Councilmember Whalen, seconded by Councilmember Griswold, that the recommendation of the Transportation Committee to proceed with Alternative One, in which the City would fund staff time and neighborhoods would pay data collection and construction costs in connection with the construction of neighborhood speed humps, be approved.

Carried unanimously.

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

- a. **Z03-12 – (District 5)** The 4400 block of East McLellan Road (south side), south to East Hannibal, north and east of Greenfield and Brown Roads (2.02 ac±). Rezone from R-3 to R-3 P.A.D. This case involves the development of an apartment complex. John Bellerose, owner/applicant. **¾ VOTE REQUIRED. CONTINUED FROM THE OCTOBER 13, 2003 CITY COUNCIL MEETING.**

P&Z Recommendation: Denial (Vote: 7-0)

Mayor Hawker advised that prior to discussion by the Council, the applicant has the opportunity to address the Council, followed by public comment and a report from City staff.

John Bellerose, owner/applicant, 1084 N. Wren, Gilbert, addressed the Council and stated that he was present to discuss the proposed project, which was continued from the October 13, 2003 Regular Council Meeting. He commented that the Council agenda inaccurately reflects the vote taken by the Planning and Zoning (P&Z) Board (Denial: Vote 7-0).

Acting Planning Director Dorothy Chimel noted the error and clarified that the correct P&Z vote was 4-2 for denial.

Mr. Bellerose continued his presentation and advised that the size of the proposed development has been reduced from six fourplex style buildings to five, or from 24 units to 20. He noted that the 2.2-acre site could actually support 32 units, but a 24-unit complex was originally introduced. Mr. Bellerose advised that he has been working with the surrounding neighbors, and in an effort to address their concerns regarding density, the configuration of each fourplex has been changed from a two-story building to a single-level dwelling with two basement bedrooms per unit below grade.

In response to a question from Mayor Hawker, Mr. Bellerose stated that sending the case back to P&Z would result in a hardship in terms of the time and money he has expended on the project. He requested that the Council consider the fact that the only major change to the project was the elimination of one building.

Jeff Register, 4550 E. Hannibal Street, speaking in support of the project, expressed the opinion that as a result of the changes implemented by Mr. Bellerose, the project would be an asset to the neighborhood and improve property values.

The following citizens, in order of appearance, spoke in opposition to the project:

Mitch Jordan	4538 E. Hobart Street
Paula Demarbiex	4450 E. Hobart Street
John Perkinson	4222 E. McLellan

The above-referenced citizens expressed opposition to the project for the following reasons:

- The density of the project could hinder the continuing efforts of the residents to improve the neighborhood.
- Two buildings are 10 feet apart and two are 20 feet apart. The City Code requires a separation of 25 feet.
- The east parking lot is 9 feet from the property line, despite the fact the City Code requires a distance of 20 feet from the property line.
- The PAD (Planned Area Development) overlay allows too many variances.

Ms. Chimel advised that the PAD overlay for the project allows for modification of the ordinance to permit ownership without frontage on a street and cited the example of two buildings in the project that do not front on McLellan. She explained that all setbacks are acceptable except for the two buildings located to the east on McLellan with a 10-foot separation instead of 25 feet, and added that the parcel that fronts on Hannibal has a 16.8-foot separation rather than the required 20 feet.

In response to a comment from Ms. Demarbiex, Ms. Chimel concurred that the landscape setback should be 20 feet, and she also noted that the parking area intrudes into the 20-foot setback.

Mayor Hawker advised that the following citizens were opposed to the subject development, but did not wish to address the Council:

William F. Demarbiex	4450 E. Hobart
Paul Reyes	4465 E. Hobart

Ms. Chimel explained that if the Council approved the case at this meeting, an introduction of the ordinance would be required. She added that staff would determine the ordinance conditions to be applied and would then schedule a public hearing to adopt the ordinance. Ms. Chimel pointed out that the site is an existing R-3 development approved for four fourplexes, and the case was initially heard by P&Z in March 2003. She advised that this is a small infill parcel that is very difficult to develop. Ms. Chimel stated that in the past, many applicants have come forward to discuss this case with staff and that many questions have been raised relative to the appropriate land use. She noted that the case heard by the Council is very different than the case presented to the P&Z Board. Ms. Chimel suggested that if the Council refers the case back to the P&Z Board, the case should be heard at its December 18, 2003 meeting.

Discussion ensued relative to the fact that staff has consistently recommended approval of this case; that a single-family residence could be constructed on a fourth parcel not included in this development; that the quadrant is shown as part of the parcel due to the fact that the quadrant was part of the overall development proposal that was approved in 2002; that the parcel could be developed in the future with R-3 lots, and that the applicant could build four fourplexes under the existing site plan with a review by the Design Review Advisory Board.

Councilmember Walters stated that she was not inclined to consider this case due to the fact that the case presented to the Council is different than the one presented to the P&Z Board.

It was moved by Councilmember Walters, seconded by Councilmember Griswold, that Case Z03-12 be referred back to the Planning and Zoning Board.

In response to a question from Mayor Hawker, Ms. Chimel advised that no additional fees would be imposed on the applicant if the Council refers the case back to P&Z and also commented that the same case number would apply. She added that if the Council denies the case, a new case number would be assigned and additional fees imposed.

Further discussion ensued relative to the fact that the applicant has made significant changes to accommodate the neighbors; that the project includes the formation of a homeowners' association; that the City should consider how many changes can be requested of a developer on an infill project, and that the Council was concerned regarding the impact of the time delays on the developer.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- \*b. **Z03-38 – (District 6)** The 3800 block of South Power Road (eastside) and the 6900 block of East Elliot Road (southside) (20.63 ac.±). Site Plan Review. This case involves development of an apartment complex. Farnham Realty, Inc., owner; Sean Lake, Pew & Lake, PLC, applicant. **CONTINUED FROM THE OCTOBER 13, 2003 CITY COUNCIL MEETING. THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE DECEMBER 1, 2003 CITY COUNCIL METING**

P&Z Recommendation: Denial (Vote: 5-2 Carpenter, Esparza voting nay)

12. Consider the following subdivision plats:

- \*a. “MAP OF DEDICATION FOR SAN MIGUEL APARTMENTS”, – **(Council District 6)** – 8800-8900 blocks of East Guadalupe Road (south side) located south and west of Guadalupe and Ellsworth Roads. San Miguel Apartments, L.P., Roberto C. Ruiz, Manager, owner; Landmark Engineering Inc., engineer.
- \*b. “ARBOR MEDICAL CENTER, A CONDOMINIUM”, – **(Council District 5)** – 6242 East Arbor Avenue (north side) located north and east of Main Street and Recker Road. 5 C-1 PAD office condominium buildings (2.38 ac) Arbor Medical Center, L.L.C., Michael Hamberlin, Managing Partner, owner; Brooks Engineers & Surveyors, Inc., engineer.

13. Items from citizens present.

J. Westerhausen, 1026 E. 9<sup>th</sup> Place, addressed the Council and expressed the opinion that PREHAB of Arizona and the City of Mesa are responsible for lowering property values in the neighborhood. He identified several issues of concern related to the activities of PREHAB in the residential neighborhood including clearing a site without a dust control permit, installing used portable classrooms in poor condition, and establishing a residential facility for juveniles from the corrections system without maintaining proper supervision.

14. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:40 p.m.

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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 17<sup>th</sup> day of November 2003. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK

baa