

COUNCIL MINUTES

May 15, 2000

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on May 15, 2000 at 5:47 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
John Giles
Keno Hawker
Dennis Kavanaugh
Pat Pomeroy
Bill Jaffa

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Neal Beets
Barbara Jones

The Invocation was given by Dr. Dale C. Olson, Bethlehem Lutheran Church.

The Pledge of Allegiance was led by Justin Petersen, Troop 557.

Presentation of plaques to citizens ending their service on citizen advisory boards and committees.

Mayor Brown announced that the City is honoring 11 individuals who are ending their terms as members of citizen advisory boards or committees and stated that the citizens represent a combined total of 67 years of community service. Mayor Brown presented the awards to the members present at the meeting and commended them for their willingness to serve the City of Mesa.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the minutes of April 27 and May 1, 2000 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 Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

3. Conduct a public hearing for the following proposed annexation:

- a. **A00-5** The southeast corner of University and Sossaman Roads.

Mayor Brown announced that this is the time and place for a public hearing regarding A00-5, the Southeast corner of University and Sossaman Roads.

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

4. Consider the following liquor license applications:

- *a. JAY O. MEANS, AGENT

Person transfer Bar License for Country Club Bowl, 140 N. Country Club Drive. This is an existing business and building. This transfer is from Jay O. Means, Agent, Country Club Rec. Inc.

- *b. SHAHIDA KHAN

New Beer and Wine Store License for One Stop Convenience, 1620 W. University Drive. This is an existing business and building. The Beer and Wine Store License previously held at this location by Bharat P. Patel, Agent, One Stop Food Mart, will revert back to the State.

- *c. H.J. LEWKOWITZ, AGENT

New Restaurant License for JB's Family Restaurant, 2801 E. Main Street. This is an existing business and building. The Restaurant License previously held at this location by H.J. Lewkowitz, Agent, JB's Family Restaurant will revert back to the State.

- *d. H.J. LEWKOWITZ, AGENT

New Restaurant License for JB's Family Restaurant, 6810 E. Main Street. This is an existing business and building. The Restaurant License previously held at this location by H.J. Lewkowitz, Agent, JB's Family Restaurant will revert back to the State.

5. Consider the following Bingo application:

- *a. Cypress Estates Activities Inc. - CLASS B
Donald Hulin, Manager
3330 E. Main Street
Mesa, AZ 85213

6. Consider the following contracts:

- *a. Geographic Information System (GIS) Software as requested by the Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with DLT Solutions for AutoCAD software for a total of \$17,037.30, including applicable tax. See the attached Recommendation for Award for detailed cost information.

- *b. Museum Collections Data Management System for the Mesa Southwest Museum, as requested by Information Services.

The Purchasing Division endorses the evaluation team's recommendation to accept the proposal from Rediscovery Software Incorporated (RSI) for a total of \$46,129.75, including applicable use tax.

- *c. Server/Storage Hardware to Facilitate Citywide File Server Backup as requested by Information Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with MicroAge Technology Services for a total of \$256,756.91, including applicable sales tax.

- *d. Upgrade to Oracle Software License Agreement as requested by the Information Services Division (ISD).

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Oracle Corporation for software licenses in the amount of \$51,150.96, including applicable tax.

- *e. Hardware to enhance the Police Department's Document Management System as requested by Information Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contracts with MicroAge Technology Services for a total of \$65,289.08, including applicable sales tax.

- *f. One-year renewal of the supply contract for library books and related materials as requested by the Library.

The Purchasing Division recommends exercising the only one-year renewal option available with Baker & Taylor for annual expenditures estimated at \$800,000.

- *g. Utility consoles for the SCADA Control Room at the newly expanded Southeast Water Reclamation Plant as requested by the Utilities Department.

The Purchasing Division recommends accepting the low bid meeting specification by Tresco Consoles at \$23,896.00 plus 5% use tax of \$1,194.80 for a total of \$25,090.80.

- h. Water Line Replacements near McLellan Road and Grand. City of Mesa Project No. 99-87.1

This project will replace the areas of water line which have shown a high failure rate.

Recommend award to low bidder, Talis Construction Corporation, in the amount of \$149,556.89.

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

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

- i. 1999/2000 Arterial and Collector Overlay/Reconstruction Project. City of Mesa Project No. 00-88.

This project will overlay a section of 8th Avenue between Gilbert Road and Spur Street and a section of 8th Street between Center Street and Mesa Drive. In addition, the project will reconstruct Hale and Hope Streets between Gilbert Road and Lindsay.

Recommend award to low bidder, Nesbitt Contracting Company, Inc., in the amount of \$612,448.95.

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

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

- *j. Fire Station Concrete Replacement - Fire Stations No. 4, 5 and 9. City of Mesa Project No. 00-72.

This project will replace existing, deteriorated concrete at Fire Station #4, located at 1426 South Extension Road, Fire Station #5, located at 730 South Greenfield Road and at Fire Station #9, located at 7035 East Southern Avenue.

Recommend award to low bidder, Hunter Contracting Company, in the amount of \$78,707.10.

- k. 1999/2000 Residential Rubber Overlays. City of Mesa Project No. 00-87.

This project is the annual project to overlay various residential roadways.

Recommend award to low bidder, Hunter Contracting Company, in the amount of \$1,097,059.13.

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

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

7. Introduction of the following ordinances and setting June 5, 2000 as the date of public hearing on this ordinance:

(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. Reducing the speed limit from 30 mph to 25 mph on Princess Drive from Recker Road to Power Road and increasing the speed limit from 40 mph to 45 mph on Stapley Drive from the Superstition Freeway (U.S. 60) to the south City limits, as recommended by the Transportation Advisory Board.
- *b. Amending Sections 11-13-2 and 11-18-9 specifying mandatory review of churches by the Design Review Board.
- *c. **Z00-21** 560 South Country Club Drive. Rezone from C-3 and R1-6 to R-3 (4± acres). This case involves the development of two story apartments.

- *d. **Z00-24** The northwest corner of Baseline and Power Roads. Site Plan Modification (1.4 acres). This case involves the development of retail shops.
- *e. **Z00-25** 6600 East Superstition Springs Blvd. Site Plan Modification (14.5± acres). This case involves the modification to an approved mixed-use development.
- *f. **Z00-26** 1742 North Lindsay Drive. Site Plan Modification (1.5± acres). This case involves the expansion of an existing boutique.
- *g. **Z00-27** 5520 East Baseline Road. Rezone from M-1 to AG (2.5± acres). This case involves consideration of a time limit condition and reversion of the current zoning designation.
- *h. **Z00-29** 107 North Greenfield. Rezone from R-4 to O-S (1± acre). This case involves the expansion of an existing dental office.
- *i. **Z00-31** The 5400 block of East Baseline Road (north side). Site Plan Review (20± acres). This case involves development of apartments.
- *j. **Z00-33** The 2200 block of North Center Street (west side). Rezone from AG to M-1 (8± acres). This case involves the development of a printshop.
- *k. **Z00-34** The southwest corner of Stapley and US 60. Site Plan Modification (14± acres). This case involves development of retail pad buildings.
- *l. **Z00-35** South of the southeast corner of Power and McDowell Roads. Site Plan Modification (4± acres). This case involves expansion of an existing retail center.
- *m. **Z00-16** North and east of the northeast corner of Power and McKellips Roads. Rezone from R1-35 and R1-35 (conceptual C-2) to C-2 (20± acres). This case involves the development of a Target Store, retail shops and pad buildings. **REINTRODUCED FROM THE MAY 1 COUNCIL MEETING.**

8. Consider the following resolutions:

- *a. Authorizing the City Manager to enter into an Intergovernmental Agreement with the City of Phoenix for receipt of Federal Grant Funds for transit vehicle maintenance - Resolution No. 7495.
- *b. Authorizing the City Manager to enter into an Intergovernmental Agreement with the City of Phoenix for receipt of Federal Grant Funds for the purchase of two transit vehicles - Resolution No. 7496.
- *c. Setting June 26, 2000 as the date for the annual assessments hearing for the Mesa Town Center Improvement District - Resolution No. 7497.
- d. Vacating the right-of-way for the alley located in the 1700/1800 blocks between East 2nd Avenue and East Nielson Avenue - Resolution No. 7503.

The easement is necessary for ingress and egress and for public utilities.

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

Kathy Lee, representing Salt River Project (SRP), addressed the Council and stated that SRP has been involved in discussions with the City and Mr. Darren Eyring regarding abandonment of an alley located in east Mesa. Ms. Lee advised that following several discussions with Mr. Eyring, SRP determined that it would be extremely difficult to completely abandon the alley and still provide adequate service but said that SRP is willing to place gates at both ends of the alley. Ms. Lee added that a key to the gates would have to be provided to SRP for access to the power lines located in the alley. Ms. Lee informed the Council that it was determined that granting complete abandonment of the alley would remove access to SRP's poles and lines and would impact the safety of SRP personnel and the general public during emergency restoration in addition to increasing the time and costs involved in maintaining the lines.

Ms. Lee noted that Mr. Eyring has suggested that SRP gain access to the power lines and poles by going through private homes and yards, and said that SRP does not consider this a viable solution for many reasons. Ms. Lee stated concerns relative to safety and the additional time it would take to access the poles and lines in an emergency situation. Ms. Lee also commented on safety concerns related to entering private property at all hours of the day and night. Ms. Lee stated that when she met with Mr. Eyring in December, it was her understanding that he agreed that the locked gates at both ends of the alley would be a viable solution to everyone's concerns. Ms. Lee added that in February she received an e-mail from Mr. Eyring stating concern regarding the trees growing in the lines and the shrubs in the alley and said that SRP dispatched a crew and trimmed twelve trees and trimmed/removed several shrubs. Ms. Lee commented on the extensive amount of time that has been expended by SRP on this matter and urged the Council to support SRP's proposal.

Julie Eyring, 1755 East 2nd Avenue, addressed the Council relative to this agenda item. Ms. Eyring stated that the area under discussion is the alley that is located directly behind her rear yard. Ms. Eyring stated the opinion that closing the alley and allowing the homeowners to move their fences back will provide the owners with added space and will reduce traffic and noise in the alley. Ms. Eyring requested that the Council support the closure of the alley.

Darren Eyring, 1755 East 2nd Avenue, requested that the Council consider a total abandonment and referred to a chart showing property owners' support for the abandonment. Mr. Eyring stated that the residents are aware of the fact that closing the alley may hamper SRP's ability to provide service in a timely manner but said that the residents are willing to assume that risk in order to enhance their safety and expand their yards. Mr. Eyring expressed the opinion that closure of the alley will enhance the quality of life for the affected residents in the area and urged the Council to support their request for a total abandonment.

Helen Chapman commented on the deteriorating condition of the neighborhood and said that noise emanates from the alley all hours of the night. Ms. Chapman discussed safety concerns and increasing crime and requested that the Council support the closure of the alley and allow the neighbors to expand their property lines.

Tony Mesias addressed the members of the Council and stated that he is a lineman with SRP and has served in that capacity for 21 years. Mr. Mesias discussed emergency situations that occur on a regular basis and stated safety concerns associated with entering customers' yards in the middle of the night. Mr. Mesias also expressed concerns regarding system reliability and discussed SRP's efforts to maintain and restore power to the lines.

Raul Noriega informed the Council that he lives in the area and stated the opinion that the closure of the alley will enhance safety and benefit the property owners.

Jill Schnepf, 1811 East 2nd Avenue, discussed problems she has had with people loitering in the alley behind her home and added that cars and motorcycles drive up and down the alley all hours of the day and night. Ms. Schnepf requested that the citizens be allowed to move their walls and said that the closure would reduce traffic and noise in that area.

Mayor Brown thanked the speakers for their input.

In response to a question from Councilmember Pomeroy, Real Estate Services Director Doug Tessendorf advised that if the closure is approved, the neighbors would be allowed to move their fences a total of eight feet.

Vice Mayor Giles questioned whether precedent has already been set in this area. Mr. Tessendorf stated that the City maintains 93 miles of alleys and added that two or three times a year the City receives requests to abandon alleys. Mr. Tessendorf informed the Council that the City has not abandoned any alleys containing SRP poles such as the current situation and provided a brief overview of the typical process that occurs.

Councilmember Pomeroy commented on the fact that the Council has just been provided additional information relative to this matter and said that he would like more time to review the materials and speak with the neighbors in the area.

It was moved by Councilmember Pomeroy that this item be continued to the next Regular Council meeting.

Mayor Brown stated that the motion dies for lack of a second.

Mayor Brown commented on the fact that he lived in this neighborhood many years ago and agreed that the neighborhood has deteriorated significantly. Mayor Brown stated the opinion that the concerns expressed by the neighbors are justified and added that he supports their request for closure of the alley.

Councilmember Kavanaugh expressed the opinion that this case is a perfect example of conflicting legitimate interests and discussed the difficulties associated with addressing planning decisions that were made many years ago. Councilmember Kavanaugh agreed that the neighbors have expressed legitimate safety and noise concerns and said that SRP has also brought up viable safety and property issues. Councilmember Kavanaugh stated that he supports the compromise proposal to close the alley but allow SRP to retain the utility easement within the locked gates at both ends of the alley.

Vice Mayor Giles commented that he can understand SRP's concerns for the safety of their employees but said that he also sympathizes with the desire of the neighbors to protect themselves

and preserve and improve their quality of life. Vice Mayor Giles advised that he is inclined to support the neighbors in their request for total abandonment of the alley and reject the compromise offer.

In response to a question from Vice Mayor Giles, City Attorney Neal Beets stated that if the Vice Mayor's motion is to completely vacate the alley with no ingress or egress easement, this can be accomplished at this meeting if the motion receives a majority vote of the Council.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the alley located in the 1700-1800 blocks of East 2nd Avenue be completely vacated.

Councilmember Jaffa stated that he supports the abandonment of alleys in appropriate situations but said that he has concerns regarding this particular case. Councilmember Jaffa also informed the property owners that he understands their concerns and sympathizes with their situation.

In response to a question from Councilmember Jaffa relative to accessibility, Ms. Lee said that arrangements for normal access for routine work that occurs during the day time hours does not present a significant problem. Ms. Lee added that should a storm occur during the night and take out a transformer which results in an emergency situation, no opportunity will be available to discuss with the neighbors before hand which sections of the fence and what plants can be moved. Ms. Lee emphasized the difficulties associated with spur of the moment emergency situations.

Councilmember Jaffa stated that his concerns have been addressed and he will support the neighbors' request for total abandonment of the alley.

Councilmember Hawker advised that he will not support the motion for total abandonment and noted that one homeowner is not in support of this proposal and wants to maintain alley access. Councilmember Hawker said that the only way he would consider the total abandonment of an alley would be if all of the lines were buried and the poles were removed. Councilmember Hawker added that he would support locking the gates at the ends of the alley to promote enhanced security for the neighbors.

Upon tabulation of votes, it showed;

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

Mayor Brown declared the motion carried by majority vote of those voting and Resolution No. 7503 adopted.

- *e. Authorizing the City Manager to execute an Intergovernmental Agreement with Maricopa County to relocate the County Justice of the Peace Courts and other County services and offices to downtown Mesa, Redevelopment Site No. 7 - Resolution No. 7498.
- *f. Authorizing the City Manager to execute an Intergovernmental Agreement with the State of Arizona through its Department of Public Safety to enhance law enforcement services concerning the criminal activities of street gangs, prison gangs and outlaw motorcycle gangs - Resolution No. 7499.

- *g. Authorizing the City Manager to execute an amendment to Intergovernmental Agreement No. 72984 between the City of Mesa and the City of Phoenix for sharing of telecommunications facilities - Resolution No. 7500.
- *h. Approving and authorizing the City Manager to execute an agreement between Level (3) Communications, LLC, and the City of Mesa, to place a fiber optics communication system under, in, along, over and across public highways, public streets and public utility easements in the City - Resolution No. 7501.
- *i. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Arizona Office of Historic Preservation for the purpose of continuing to be a part of the State's Volunteer Site Steward Program which helps monitor and protect archaeological, historic, and prehistoric sites in Arizona - Resolution No. 7502.

9. Consider the following ordinances:

- a. Relating to traffic safety; amending Sections 6-12-5, 6-12-6, 10-3-21 and 10-3-25 of the Mesa City Code; and preserving rights and duties that have already matured and proceedings that have already begun under those sections – Ordinance No. 3770.

City Attorney Neal Beets advised that the Council previously requested clarification relative to the intent of the ordinance and said that one of the principal purposes is to adopt the City of Tempe's "boom box ordinance." Mr. Beets commented on the significant amount of complaints that are received regarding loud car stereos and boom boxes and stated the opinion that this proposal is the most appropriate and most successful of the alternatives. Mr. Beets informed the Council that the proposed ordinance states that sound amplification equipment in a vehicle cannot be played so loudly that persons who are standing 50 feet away from that vehicle hear the sound. Mr. Beets added that the ordinance also describes a situation where the sound becomes a nuisance to persons of "normal sensibility" and noted that some discretion is involved.

Mr. Beets commented that the proposed ordinance states that there will be a civil penalty for violations and that a Civil Traffic Hearing Officer will hear any citations or complaints and render a decision. Mr. Beets noted that the maximum penalty cannot exceed \$1,000 and the amount would be based on the severity of the offense. Mr. Beets added that after three offenses, it would become a criminal misdemeanor and would be treated as a misdemeanor in the Mesa City Court.

Councilmember Pomeroy, who serves as Chairman of the Police Committee, stated that this item has been reviewed by the members of the Police Committee and said that their recommendation is approval of the proposed ordinance as presented.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that Ordinance No. 3770 be approved.

Carried unanimously.

- b. Relating to massage therapy; amending Section 5-12-6 of the Mesa City Code; amending Title 5, Chapter 12 of the Mesa City Code by adding a new Section 5-12-16; and providing for applicability and an effective date.

Mayor Brown advised that several speakers have indicated their intention to address the Council relative to this issue.

Mr. Beets provided the audience with a brief overview of the proposed ordinance and stated that the ordinance would phase out trainee licenses entirely and would provide for an arrangement whereby persons who are certified to provide massage therapy services in other states pursuant to a certification by the National Certification Board for Therapeutic Massage and Body Work, could also receive a massage therapy license in the City of Mesa on a reciprocal basis. Mr. Beets added that the proposed license also contains a medical malpractice/professional and general liability insurance requirement and noted that although cities do not typically have an insurance requirement for this particular field, the insurance was recommended by the Police Committee and supported by the Tax and Licensing Administrator.

Bill Parrish, 1500 West 8th Street, #26, addressed the Council relative to this item and said that the elimination of the trainee license is unfair and inappropriate. Mr. Parrish stated the opinion that allowing students to remain in the profession while they are attending school should be allowed. Mr. Parrish requested that the Council allow the students to continue in this manner for an additional year and said that the process could be further reviewed following that period of time. Mr. Parrish added that the cost of insurance would negatively impact many of the therapists and commented on the fact that the State will address this issue in the future. Mr. Parrish encouraged the members of the Council to visit his massage therapy business and see first hand the professional, high quality services that are offered.

Gloria Bruce, 1120 North Val Vista Drive, Gilbert, stated that she is a licensed physical therapist and has been practicing massage therapy for twelve years. Ms. Bruce informed the Council that she was previously licensed in New York State and said that when she relocated to Mesa, Arizona, it was very difficult to obtain her license here. Ms. Bruce discussed licensing fees charged by different cities and stated her opposition to the insurance requirement. Ms. Bruce expressed the opinion that the services provided by massage therapists should not require malpractice insurance.

Craig Peterson, 144 South Mesa Drive, stated the opinion that licensing does not ensure the elimination of illegal activity but does serve to reduce the amount of that activity. Mr. Peterson also spoke in opposition to requiring insurance and discussed the expenses associated with that requirement.

Kate Trott, 1055 West Baseline Road, commented on the fact that not all doctors are required to carry malpractice insurance and added that nurses are also not subject to this criteria. Ms. Trott stated that her work is extremely non-invasive and said that there is minimal opportunity for any injuries to occur. Ms. Trott expressed the opinion that requiring such insurance will only impact the legitimate licensed massage therapists and urged the Council to eliminate this requirement.

Lorna Rogers, 1751 East 1st Street, concurred with the previous speakers' remarks relative to the negative impacts of requiring malpractice insurance and requested that the Council remove this requirement.

Earl Duskey, 834 North Cherry, commented on the high amount of malpractice insurance that this requirement calls for and stated the opinion that the costs are excessive and the insurance is unnecessary. Mr. Duskey added that carrying insurance should be the personal option of each massage therapist and should not be a requirement for licensure.

Gerald Rice, 6209 East McKellips Road, a licensed therapist in Mesa, Scottsdale and Phoenix, informed the Council that he carries \$1 million in insurance but stressed that the decision is a personal one and should not be mandated by government. Mr. Rice stated the opinion that the costs associated with this insurance will force many therapists out of business and urged the Council to reconsider this requirement.

Earl Lincoln, 2202 East Flint, the owner of a massage facility in Mesa, expressed opposition to the insurance requirement and concurred with the remarks of the previous speakers relative to this issue. Mr. Lincoln also commented on the elimination of the trainee licenses and asked the Council to also reconsider this matter. Mr. Lincoln stated the opinion that the issuance of one trainee license with no renewal option should be allowed and added that it would then be up to the individuals to complete their study and obtain a regular license.

Mayor Brown thanked the speakers for their input.

Mayor Brown commented that he also has concerns regarding the insurance requirement and stated the opinion that the costs associated with the insurance would negatively impact the providers of that service.

Councilmember Kavanaugh said that he concurs with the recommendations of the Police Committee relative to national certification and the elimination of the trainee licenses, but expressed the opinion that the insurance requirement goes beyond what should be required of the members of this profession. Councilmember Kavanaugh indicated that he would support the elimination of the insurance requirement.

Councilmember Pomeroy, who serves as Chairman of the Police Committee, commented that the goal of the Police Committee in recommending the requirement for malpractice insurance was to protect the legitimate businesses and eliminate the illegitimate ones. Councilmember Pomeroy noted that although the Police Committee encouraged input from the members of the industry relative to this insurance requirement, not one comment was received and said that it was the feeling of the Committee that the industry supported this recommendation. Councilmember Pomeroy said that if the Committee had received the input that was just provided, he does not believe that the insurance requirement recommendation would have been forwarded to the Council.

In response to a question from Councilmember Pomeroy relative to eliminating paragraph 3 of the proposed ordinance requiring malpractice insurance and approving the remainder of the ordinance, City Attorney Neal Beets stated that the Council may make a motion to remove that portion of the ordinance that deals with insurance and then staff can amend the ordinance, introduce the amended ordinance and bring it before the Council once again for consideration and action.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that staff be directed to prepare an amended ordinance eliminating the requirement for malpractice insurance, and that the revised ordinance be introduced at the next Regular Council Meeting.

Councilmember Jaffa concurred with Councilmember Pomeroy's comments and reiterated that had input in opposition to the insurance requirement be provided by the members of the industry during the public hearings, the Committee would not have voted in support of this recommendation.

Carried unanimously.

- *c. Relating to the City's organizational structure; amending chapter 29; Title 1 of the Mesa City Code, and Chapters 4, 8, and 12, Title 3 of the Mesa City Code, and making other conforming changes to the Mesa City Code - Ordinance No. 3766.
- *d. Relating to public health and safety, amending the 1997 Uniform Fire Code, amending certain provisions in the amendments to the Uniform Fire Code; amending Title VII, Chapter 2 of the Mesa City Code and providing penalties for violations, thereof and establishing a delayed effective date of January 1, 2001 for Sections 1003.2.5 and 1003.2.5.1 in the amendments - Ordinance No. 3767.
- *e. Relating to the Municipal Court and fees; amending Section 1-12-3 of the Mesa City Code, and amending Title 1 of the Mesa City Code, by adding a new Section 1-12-7 - Ordinance No. 3768.

This ordinance increases the already established Court User Fee from \$10 to \$20 and will require certain defendants in the Mesa Municipal Court to pay for the cost of their own incarceration in the Maricopa County Jail.

- *10. Consider a notice of intention setting June 26 as the date for the public hearing to modify water, wastewater, natural gas, solid waste rates utility rates, rate components, fees and/or service charges.
- *11. Consider recommending that Williams Communications, Inc., be granted a temporary permit to place a fiber optics communication system under Broadway and Macdonald Streets at the Union Pacific Railway tracks.
- *12. Consider the following recommendation from the Police Committee:
 - a. Recommend staff's recommendation relative to the development of an interim pilot program during which the City will contract with a process server to deliver summonses to approximately 300 defendants a month who have not acknowledged receipt of the summonses within a 65-day period be approved, and that staff be directed to pursue changes in State law relative to this issue.
- 13. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinance:
 - *a. **Z99-104** The southwest corner of U.S. 60 and Crismon. Rezone from R1-43 to R-2-PAD (10± acres). This case involves development of a residential subdivision. William C. Matthews, owner; Del Pueblo Homes, Inc., applicant, represented by: Pat Lannan. **CONTINUED FROM THE MARCH 6, 2000 COUNCIL MEETING** - Ordinance No. 3769.

P&Z Recommendation: Approval with conditions (Vote: Passed 6-0).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with the Residential Development Guidelines, regarding wall design, building elevations and arterial street landscape area.

3. Compliance with all requirements of the Development Services Department (Engineering and Traffic Engineering, etc.).
 4. 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.
 5. Compliance with all requirements of the Subdivision Technical Review Committee.
 6. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
 7. Written notice be provided to future residents, and acknowledgment received that the project is within approximately five miles of Williams Gateway Airport.
 8. Provide a 20' deep landscape area (including private tract and right-of-way landscaping) along Crismon Road.
 9. Street widths to have a least 28' of pavement to allow for on-street parking.
- *b. **Z00-5** 619 and 621 West Southern Avenue. Rezone from R-4 to C-1 (1.6± acres). This case involves the development of an Urgent Care facility. **CONTINUED FROM THE APRIL 17, 2000 MEETING. THIS ITEM TO BE TABLED.**

14. Consider the following subdivision plats:

- *a. "ROSEMONT BUSINESS PARK II" – The 4900 block of East McKellips Road (south side) 10 M-1 PAD condominium industrial buildings (6.38 acres) DCSJ, Ltd., developer; Standage & Associates, Ltd. engineer.
- *b. "GREENFIELD HEIGHTS" – The 100 block of South Greenfield Road (west side) 58 R-2 PAD townhome lots (7.20 acres) Sivage Thomas of Arizona, Inc., developer; Montgomery Engineering & Management, L.L.C., engineer.
- *c. "THE VILLAGE AT AUGUSTA RANCH" – The 2000-2300 blocks of South Ellsworth Road (east side) 7 C-2 DMP commercial lots (17.38 acres) A.R. Development, L.L.C., developer; DEI Professional Services, L.L.C., engineer.

15. Items from citizens present. (Maximum of three speakers for three minutes per speaker).

Leo Mahoney, 1115 West Emerald, addressed the Council and stated that in 1996 he served as Chairman of an Ad Hoc Committee that reviewed the election procedures in the City of Mesa. Mr. Mahoney said that the Committee expended great effort in carrying out their responsibilities and in December 1996, the Committee's recommendations were forwarded to the Council for their review. Mr. Mahoney reported that in October 1997, the City Council considered the Committee's nine recommendations, six of which were approved unanimously. Mr. Mahoney questioned the status of two of the six approved recommendations, one pertaining to campaign signs and recommending that staff develop recommendations relative to charging candidates and/or committees for signs that City staff has to remove, and the second recommendation asking that staff be directed to prepare a report for the Council's consideration relative to charging the Arizona Republic and the Mesa Tribune for use of City facilities to promote particular agendas which benefit those businesses, such as candidate forums. Mr. Mahoney requested that Mayor Brown address these issues prior to leaving office and thanked the Council for their consideration.

Mayor Brown thanked Mr. Mahoney and indicated his intention to pursue these issues. Mayor Brown commended Mr. Mahoney and the members of the Committee for their efforts.

16. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:35 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 15th day of May 2000. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2000

BARBARA JONES, CITY CLERK