

# COUNCIL MINUTES

November 17, 1997

The City Council of the City of Mesa met in a Regular Council Meeting in the Conference Theatre of the Centennial Conference Center, 201 North Center Street, on November 17, 1997 at 5:45 p.m.

## COUNCIL PRESENT

Mayor Wayne Brown  
Pat Gilbert  
John Giles  
Dennis Kavanaugh  
Joan Payne  
Wayne Pomeroy  
Claudia Walters

## COUNCIL ABSENT

None  
  
POLICE OFFICER  
PRESENT  
  
Marc Therre  
Bob Nesbitt

## OFFICERS PRESENT

C.K. Luster  
Neal Beets  
Barbara Jones

The Invocation was given by Councilmembers Giles.

The Pledge of Allegiance was led by Police Officer Marc Therre.

Presentation of "Best Urban Program Award" from Southwest Recycling Association to Mayor Brown for the Solid Waste and Facilities Division waste reduction programs.

Mitra Khazi, Acting Executive Director of Southwest Public Recycling Association, presented Mayor Brown with the Urban Recycler of the Year award in recognition of the comprehensiveness of waste reduction programs available through the Solid Waste and Facilities Division to residences and businesses.

Mayor Brown expressed appreciation to the Southwest Public Recycling Association for the Award.

### 1. Approval of minutes of previous meetings as written.

It was moved by Councilmember Pomeroy, seconded by Councilmember Giles, that the minutes of October 24, 28, 31, November 3, 6, and 7, 1997, be approved.

Carried unanimously.

1.1. Consider the appointment of a Councilmember to fill the vacant seat.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that Claudia Walters be appointed Councilmember to fill the existing vacant seat until term expiration at the City's 1998 election.

Carried unanimously.

1.2 Administration of Oath of Office and seating of new Councilmember.

City Clerk Barbara Jones administered the Oath of Office to newly appointed Councilmember Walters.

Mayor Brown and the members of the Council congratulated Councilmember Walters on her appointment and welcomed her to the Council.

Mayor Brown provided a brief overview of Councilmember Walters' qualifications and background.

Councilmember Walters thanked the Mayor and City Council for their support and the opportunity to serve the City of Mesa. Councilmember Walters commented that she is proud to serve as a member of the Council and indicated her intention to serve the citizens of Mesa to the best of her ability. Councilmember Walters introduced her family and thanked them for their support.

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

- a. **A97-7** Areas west of North Ellsworth Road from McLellan Road to University, and areas east of North Ellsworth Road from McLellan Road to Brown Road.

Mayor Brown announced that this is the time and place for a public hearing regarding the proposed annexation.

Carol Owens spoke in opposition to the proposed annexation. Ms. Owens expressed concern that the annexation would decrease the native desert and wildlife, increase smog and may constitute an increase in taxes.

Bill Brando, 61 South Macdonald, requested that Council reevaluate the annexation of county islands. Mr. Brando stated the opinion that urban sprawl creates an increase of vehicles resulting in smog and pollution. Mr. Brando suggested that Council consider the negative effects of annexation to the City and the quality of life.

In response to a question from Vice Mayor Gilbert, Community Development Manager Wayne Balmer spoke regarding the differences in the County's and the City's development standards. Mr. Balmer explained that the property under discussion would eventually be developed by either the City or the County. Mr. Balmer stated that the public hearing is the initial stage of the annexation process and noted that petitions will be circulated and survey cards mailed.

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

3. Consider all consent agenda items.

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

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

Carried unanimously.

4. Consider the following liquor license applications.

\*a. YAO FANG LU, AGENT

Person transfer beer and wine bar license for Golden Valley, 832 West Baseline Road, #14. This transfer is from Jeffrey W. Bobigian, Agent, Bobigian Enterprises Inc., to Yao Fang Lu, Agent, Lu's Chinese, Inc.

\*b. SUE A. DINES, AGENT

New beer and wine store license for Express Stop, North West Corner Power Road and Baseline Road. This is a new business, no previous liquor licenses at this location.

\*c. GURDIAN S. BRAR, AGENT

New beer and wine store license for Mesa Dollar Mart Plus, 540 West Broadway Road, #114. This is a new business, no previous liquor licenses at this location.

\*d. WILLIAM J. HOWARD, AGENT

New restaurant license for Black-eyed Pea Restaurant, 1365 South Alma School Road. The license previously held at this location by David H. Barker, Agent, GHS Restaurant Management, Inc., will revert back to the State.

\*e. GREG W. POPLWKO, AGENT

New restaurant license for Lone Star Steakhouse & Saloon, 918 West Southern Avenue. The license previously held at this location by Scott Wohlgemuth, Agent, Sizzler Restaurants International, Inc., went out of business.

5. Consider the following contracts.

\*a. Four medium-volume copiers as requested by the Library. Three of these copiers are replacement units, one is an addition.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with CDT, Inc. at \$16,766.00 plus 7.45% sales tax of \$1,249.07 for a total of \$18,015.07.

- \*b. One replacement four-wheel-drive tractor as requested by the Cemetery.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Bingham Equipment Company at \$13,746.00 plus 5.75% sales tax of \$790.40 for a total of \$14,536.40.

- c. 98 CNG conversions for various City vehicles as requested by Fleet Support Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with North American Fleet Services for \$494,215.60 including materials, labor and applicable sales tax.

Mayor Brown acknowledged the City's compliance with clean air standards in converting vehicles to CNG fuel but noted concern regarding the cost to convert the vehicles for the benefits received. Mayor Brown expressed the opinion that alternative solutions be utilized to comply with the clean air standards.

Councilmember Kavanaugh spoke regarding the importance of the CNG conversions and stated support of staff's recommendations.

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

Vice Mayor Gilbert expressed the opinion that the cost of the conversion of vehicles to CNG fuel is a marginal investment for clean air. Vice Mayor Gilbert suggested that the neighboring communities discuss air quality and adopt measures that would provide the greatest improvement over time.

Mayor Brown indicated that although he has concerns relative to the cost of converting vehicles to CNG fuel and the short-length of time a vehicle can operate on CNG fuel, he would support the motion to improve air quality.

Carried unanimously.

- \*d. One Security X-Ray Scanner for the City Court.

The Purchasing Division recommends authorizing this purchase from the State of Arizona Department of Administration for a total of \$25,000.00.

- \*e. Franklin Pool Replaster.

This project involves replastering an existing pool at Franklin Elementary School which is located at 1753 East 8th Avenue.

Recommend award to low bidder, Shasta Industries, Inc., in the amount of \$19,700.00.

- \*f. Harmony Park Improvements.

This project involves installing new improvements at Harmony Park which is located at 32nd Street and the Freeway.

Recommend award to low bidder, Triad Technology Corporation, in the amount of \$275,869.00.

\*g. Desert Wells No. 15.

This project involves the drilling and construction of a new potable water well in the Desert Wells water zone.

Recommend award to low bidder, Zim Industries, Inc., in the amount of \$297,880.00.

h. Police heliport fuel storage facility at Falcon Field and lighting improvements at the Falcon Field Police Hangar.

This project involves installing a new heliport fuel storage facility and installing lighting improvements at an existing police hangar both located at 5110 East Falcon Drive at Falcon Field Airport.

Recommend award to low bidder, Triad Technology Corporation, in the amount of \$169,000.00.

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

Carried unanimously.

\*i. North Hall Circle Improvement.

This project involves installing street improvements on North Hall Circle north of Lockwood Street.

Recommend award to low bidder, C. B., Contracting, Inc., in the amount of \$19,905.00.

6. Consider the following resolutions.

\*a. Extinguishing a public utility easement located at 2460 East Main Street, Trail Riders Mobile Home Park - Resolution No. 7117.

This easement is no longer needed. Placement of mobile home is in conflict with easement.

\*b. Extinguishing a waterline easement located in the 1600 block of East Main Street Resolution No. 7118.

This area has been rezoned and the easement is no longer needed.

\*c. Approving and authorizing the City Manager to execute an Intergovernmental Agreement among the City of Mesa, Apache Junction, Chandler, Gilbert, Guadalupe, Phoenix, and Tempe to provide for fire protection and other emergency services as recommended by the Fire Committee - Resolution No. 7119.

- \*d. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and State of Arizona, through the Adjutant General, relating to the temporary winter shelter program - Resolution No. 7120.

7. Consider extending the contract with U. S. Public Technologies for the camera/radar traffic enforcement system.

Police Chief Lars Jarvie recommended that Council extend the contract with U.S. Public Technologies for the camera/radar traffic enforcement system for an additional year to allow Arizona State University (ASU) sufficient time to obtain data regarding the effectiveness of the program. Chief Jarvie spoke regarding Arizona State University's (ASU) report and advised that the initial preliminary numbers are positive.

Joanie Flatt, 623 West Southern, representing U.S. Public Technologies, advised Council of their options: to stop the camera/radar traffic enforcement system, continue with the ASU report, or rely on other evaluative data available to Council and suspend the ASU study and direct the Police Department to position the camera/radar equipment in locations that would provide the greatest benefit. Ms. Flatt provided Council with photo radar data collected by U. S. Public Technologies.

In response to questions from Councilmember Payne, Ms. Flatt informed Council of her affiliation with U.S. Public Technologies. Ms. Flatt spoke of U.S. Public Technologies' position regarding the compilation of data and stated that the company will support Council's decision. John White, of U.S. Public Technologies, stated that lobbyists have recently been retained by U.S. Public Technologies.

Councilmember Payne requested Ms. Flatt provide her with data regarding the total number of hours she has worked on Mesa's photo radar project for U.S. Public Technologies.

In response to a question from Vice Mayor Gilbert, Mr. White explained that a telephone survey was utilized in Mesa before and after the initiation of photo radar.

In response to a question from Councilmember Giles, Chief Jarvie advised that extending the ASU contract beyond two years would provide ASU sufficient time to analyze and present the results to Council.

Councilmember Giles encouraged the Police Department to continue to analyze the photo radar system to assist in determining the effectiveness of the program.

Discussion ensued relative to the number of violations issued for individuals driving approximately 11 miles over the posted speed limit, and whether the influx in winter visitors is accounted for when evaluating data.

James Hamblin, 2532 East Elmwood, spoke in opposition to the utilization of photo radar. Mr. Hamblin expressed the opinion that the use of photo radar creates a mind set in individuals.

Jim Cavender, 1510 North 26th Street, stated the opinion that the data gathered relative to the first year utilization of the photo radar system was only a compilation and did not consider costs such as insurance.

Phillip Lowry, 2726 South Los Altos, expressed support for the continuation of the photo radar system. Mr. Lowry indicated that the Mesa Police Department is the first agency to initiate its own study.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Gilbert, that the recommendation of staff to extend the contract with U. S. Public Technologies for the camera/radar traffic enforcement system be approved.

Councilmember Payne clarified her position regarding the utilization of photo radar and suggested that another method be initiated that would assist in providing safer streets. Councilmember Payne spoke regarding photo radar and its affects on citizens. Councilmember Payne indicated opposition to the motion.

Councilmember Giles spoke regarding the positive preliminary statistics presented and stated support for the motion.

Councilmember Kavanaugh stated support for the motion and noted that the photo radar/red light program merits action.

Councilmember Walters noted support for the motion. Councilmember Walters spoke regarding the importance of the ASU data and obtaining comparisons to cities that do not currently utilize photo radar.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried by a majority vote.

8. Consider the following ordinances.

- \*a. Repealing Title 9, Chapter 11 of the Mesa City Code pertaining to floodplain regulations - Ordinance No. 3405.
- b. Relating to telecommunications; establishing a telecommunications license or franchise requirement; providing for the imposition and collection of rights-of-way rental fees on providers of telecommunications services; providing for location and relocation of facilities in rights-of-way; amending Title 9 of the Mesa City Code by adding a new Chapter 13; establishing a delayed effective date; providing for severability; and providing penalties for violations - Ordinance No. 3409.

Jack DeBolske, Executive Director of the League of Arizona Cities and Towns, provided a brief history of the Telecommunications Act of 1996 and its effects on individual cities and towns. Mr. DeBolske explained that representatives from various cities and towns, the League of Arizona Cities and Towns, and members of the telecommunication industry developed a tentative agreement regarding the use of private streets. Mr. DeBolske spoke of the committee's inability to reach a consensus and advised that a model ordinance was developed without the assistance of telecommunication representatives. Mr. DeBolske indicated that Mesa will be the first City to adopt the ordinance.

Webb Crockett, of Fennemore Craig, representing AirTouch Communication, questioned if Council has proper authority to adopt the ordinance and noted that the adoption of franchise fees require an election. Mr. Crockett expressed the opinion that the proposed fee is a tax and noted that the fee would be passed along to consumers. Mr. Crockett requested that Council consider delaying adoption of the proposed ordinance for further review.

Manny Lerma, Jr., 3033 North Third Street, representing U.S. West Communications, informed Council that U.S. West is not a member of the telecommunication coalition. Mr. Lerma stated that U.S. West does not support the proposed ordinance relative to its revenue generation and regulatory aspects. Mr. Lerma suggested that Council consider delaying adoption of the ordinance to allow sufficient time to hold a public hearing.

Kenneth Sundlof, 2 North Central, representing Salt River Project, advised Council of the amount of fiber lines utilized by Salt River Project (SRP) and stated that excess capacity is leased to private companies. Mr. Sundlof indicated that an agreement had been reached between the various cities, towns, League of Arizona Cities and Towns, and representatives of the industry on 20 items but that the committee was unable to reach a consensus on all of the items. Mr. Sundlof suggested that negotiations be resumed and noted SRP's concerns regarding the rental fee.

Ivan Johnson 2036 West Greenway, representing Cox Communication, indicated opposition to the proposed ordinance. Mr. Johnson expressed the opinion that the ordinance would delay telecommunication services and place an unfair burden on the consumer. Mr. Johnson suggested that Council consider continuing this issue to provide sufficient time for a public hearing.

Bill Brando, 61 South Macdonald, stated the opinion that Mesa should not be the first City to adopt the ordinance. Mr. Brando indicated that the ordinance may create legal issues. Mr. Brando suggested that Council consider continuing this case to provide sufficient time for the cities, League of Arizona Cities and Towns, and industry representatives to resume negotiations and develop an acceptable ordinance.

Adriana Zavala, 1721 West Weldon, representing the Telecommunication Coalition, indicated opposition to the proposed model ordinance. Ms. Zavala noted concern with the ordinance relative to the required permit and fees. Ms. Zavala advised that not all telecommunication businesses utilize the right-of-way and expressed the opinion that the ordinance should be voted on at an election.

John Badal, 2800 North Central, representing AT&T and President of the Telecommunication Coalition, stated opposition to the proposed ordinance. Mr. Badal committed the coalition to work with the various cities if the proposed model ordinance is not approved by any of the cities. Mr. Badal stated that the proposed tax base is the most extensive in the country.

Steve Duffy, 3101 North Central, attorney for Ridge & Isaacson representing Sprint, stated the opinion that the proposed rental fee is a tax and indicated that Sprint is in opposition to the ordinance.

In response to a question from Councilmember Giles, Mr. Duffy suggested that the rental fee should be based on the cost of the right-of-way and that users should be charged an equal amount for the use of the right-of-way.

Susan Bittersmith, 3610 North 44th Street, representing the Telecommunication Coalition, requested that Council consider continuing the case to allow for additional discussion. Ms. Bittersmith expressed the opinion that the rental fee is a tax and noted that telecommunication companies will pass the tax onto the consumer.

City Attorney Neal Beets noted that the City of Tucson currently has a larger number of providers than the City of Mesa and requires a larger percentage of sales tax, telecommunication tax, and rental fee than would be required under the proposed model ordinance. Mr. Beets noted that 60 to 70 percent of the citizens do not subscribe to cable and questioned why these individuals would allow free use of the right-of-way. Mr. Beets acknowledged that a tentative agreement was reached between the telecommunication companies and the cities but was not successfully completed. Mr. Beets stated that a team of attorneys from various cities throughout Arizona was established by the League of Arizona Cities and Towns to complete the model ordinance. Mr. Beets briefly explained the ordinance and advised that the rental fee would only pertain to retailers with facilities in the right-of-way. Mr. Beets reminded Council that U.S. West is not a part of the coalition and emphasized the importance of requiring companies to pay for utilization of an individual's property.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Kavanaugh, that Ordinance No. 3409 be adopted.

Councilmember Kavanaugh noted that federal law requires the City to provide access to the right-of-way but also permits the City to obtain proper compensation. Councilmember Kavanaugh acknowledged the potential for future litigation but noted the importance of protecting the public's interest.

Vice Mayor Gilbert stated that all ordinances are subject to negotiation and refinement and expressed concern relative to potential right-of-way problems if Council were not to adopt the ordinance.

Councilmember Giles spoke of the importance of protecting the public's assets.

Councilmember Pomeroy indicated support for the ordinance and expressed the opinion that the cost of utilizing the right-of-way should be placed on the industry not the consumer.

Councilmember Payne stated opposition to the motion relative to the consumer being ultimately responsible for the fee.

Councilmember Walters expressed support for the ordinance and noted that the proposed fees would be consistent with existing right-of-way fees.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Walters

NAYS - Payne

Mayor Brown declared the motion carried by majority vote.

(Councilmember Payne left the meeting at 8:19 p.m.)

- \*c. Prohibiting northbound left turns from the driveways entering the alley south of Aspen Avenue from Power Road to a point 300 feet west of Power Road; prohibiting parking on Longmore from Main Street to a point 240 feet north of Main Street, on 22nd Place from University Drive to a point 175 feet south of University Drive, on Jensen Street from Power Road to a point 20 feet east of Sunrise Circle, on Inverness Avenue from Val Vista Drive to a point 240 feet east of Val Vista Drive, and on the west side of Robson from University Drive to a point 50 feet south of University Drive; and reducing the speed limit from 40 mph to 35 mph on Center Street from McKellips Road to a point 500 feet south of Lehi Road; as recommended by the Traffic Safety Committee - Ordinance No. 3406.

9. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding ordinances.

- a. Z97-75 The northeast corner of Southern Avenue and Signal Butte Road. Rezone from R1-9 to R1-6-PAD and C-2 (60± acres). This case involves development of a single-residence subdivision and a future retail parcel. Garry Jestadt, owner; Kaufman and Broad of AZ., Inc., applicant. **CONTINUED FROM THE OCTOBER 20, 1997 REGULAR COUNCIL MEETING. THE APPLICANT IS REQUESTING THIS CASE BE CONTINUED TO THE DECEMBER 15, 1997 REGULAR COUNCIL MEETING.**

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works 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. Compliance with all requirements of the Design Review Board for the C-2 portion;
7. Compliance with the project narrative submitted; and
8. Compliance with applicant's letter dated September 18, 1997.

Mayor Brown questioned the appropriateness of continuing the cases based on the fact that the zoning cases have inadequate lot sizes.

Councilmember Giles concurred with Mayor Brown and suggested that the zoning cases be referred back to the Planning and Zoning Board pending the development of guidelines and review of the General Plan.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Councilmember Pomeroy indicated opposition to tabling zoning cases Z97-89 and Z97-90 relative to the infill nature of the projects.

Councilmember Kavanaugh concurred with Councilmember Pomeroy regarding zoning cases Z97-89 and Z97-90.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- b. **Z97-77** South and east of the southeast corner of Hawes Road and Guadalupe Road. Rezone from R1-43 to R1-6-PAD (95± acres). This case involves development of a single-residence subdivision. Woodside Homes, owner; Ralph Pew, applicant. **THE APPLICANT IS REQUESTING THIS CASE BE CONTINUED TO THE DECEMBER 15, 1997 REGULAR COUNCIL MEETING.**

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Subdivision Technical Review Committee;
5. Compliance with the project narrative; and
6. Home product for all parcels to be approved by staff for compliance with the project narrative's diversity guidelines.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Upon tabulation of votes, it showed:

AYES - Brown- Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- c. **Z97-79** The northeast corner of McKellips Road and 26th Street (alignment). Rezone from R-2 to R1-6-PAD (3± acres). This case involves development of a manufactured home subdivision. James and Shirley Thoman, owner; Robert Paulsell, applicant.

P & Z Recommendation: Approval with Conditions (Vote 5-2, Brock and Farnsworth nay)

1. Compliance with the basic development as shown on the revised site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.) including resolution of the on-site retention;
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; and
6. Ground mounted AC units and upgraded support columns as per the applicant.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Upon tabulation of votes, it showed:

AYES - Brown- Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- d. **Z97-80** The southeast corner of Stapley Drive and the Superstition Freeway. Rezone from AG to M-1 with a Council Use Permit (37± acres). This case involves development of a movie theater complex with pad buildings. Globe Corporation, owner; Vestar Development Company, applicant. **CONTINUED FROM THE OCTOBER 20, 1997 REGULAR COUNCIL MEETING. THE APPLICANT IS REQUESTING THIS CASE BE CONTINUED TO THE DECEMBER 15, 1997 REGULAR COUNCIL MEETING.**

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.), including location and design of public street access;
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Design Review Board for theater and free-standing buildings; and

5. Review and approval of a Special Use Permit by the Board of Adjustment for comprehensive sign plan.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that this matter be continued to the December 15, 1997, Regular Council Meeting.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Walters  
NAYS - None  
ABSENT - Payne

Mayor Brown declared the motion carried unanimously by those present.

- \*e. **Z97-88** The 6500 block of East Baseline Road (north side, north to Superstition Springs Blvd.) Rezone from C-2-DMP to C-2-BIZ-DMP (15± acres). This case involves the development of a 6-story hotel and 152 casitas - Ordinance No. 3407.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
  2. Review and approval by the Design Review Board of future development plans;
  3. Compliance with all requirements of the Public Works 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. Compliance with all requirements of the Design Review Board; and
  7. Review and approval of a Special Use Permit by the Board of Adjustment for a Comprehensive Sign Plan.
- f. **Z97-89** The 9800 and 9900 blocks of East Southern Avenue (north side). Rezone from R1-43 to R1-6-PAD (25± acres). This case involves the development of a 166-lot subdivision. Southern and Crismon Road Property, Ltd., owner; Maracay Homes, applicant.

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

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 all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;
4. All street improvements and perimeter landscaping to be installed in the first phase of construction;

5. Compliance with all requirements of the Subdivision Technical Review Committee; and
6. Compliance with the letters dated October 13 and October 15, 1997.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- g. **Z97-90** 'The 6600 block of East McDowell Road (south side). Rezone from R-3-PAD to R-2-PAD (9.26 acres). This case involves the development of a 72-lot subdivision. Daniel and Susan Giblin, owners; Maracay Homes Arizona I, L.L.C., applicant.

P & Z Recommendation: Approval with Conditions (Vote 6-1, Brock 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, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Subdivision Technical Review Committee;
5. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field 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);
6. Written notice be provided to future residents, and acknowledgment received that the project is within one mile of Falcon Field Airport;
7. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db; and
8. Compliance with letter dated October 16, 1997.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Upon tabulation of votes, it showed:

AYES - Brown- Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- h. **Z97-91** The southwest corner of McKellips Road and Barkley. Site Plan Modification (3.4± acres). This case involves development of a 31-lot patio home project. NUPETCO, owner; Edward James, applicant.

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Subdivision Technical Review Committee;
5. Four-sided elevations to be determined by the applicant and staff; and
6. All front yard landscaping to be maintained by the Homeowner's Association.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that Zoning Cases Z97-75, Z97-77, Z97-79, Z97-89, Z97-90 and Z97-91 be tabled.

Upon tabulation of votes, it showed:

AYES - Brown- Gilbert-Giles-Walters  
NAYS - Kavanaugh-Pomeroy  
ABSENT - Payne

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

- \*i. **Z97-92** 2241 South Power Road. Site Plan Review (1.1± acres). This case involves development of a veterinary clinic. Dr. Scott Darger, owner; Mortensen/BTA Construction, applicant - Ordinance No. 3408.

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, or at the time of the City's request for dedication, whichever comes first; and
4. Compliance with all requirements of the Design Review Board.

10. Consider the following subdivision plats.

- \*a. "HIGLEY STATION" - The 5200 and 5300 blocks of East Southern Avenue (north side). Four C-2 commercial tracts (5.54 acres). Biltmore Holdings IX L.L.C., developer; Cella Barr Associates, Inc., engineer.

- \*b. "RIVERSTONE AT SUPERSTITION SPRINGS" - The 7100 block of East Superstition Springs Boulevard (south side). 109 R-2-PAD-DMP patio-home lots (15 acres). Price Enterprises, Inc., developer; CMX Group Inc., engineer.

11. Adjournment.

It was moved by Councilmember Giles, seconded by Vice Mayor Gilbert, that the Regular Council Meeting adjourn at 8:39 p.m.

Carried unanimously.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 17th day of November 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 4th day of December 1997

BARBARA JONES, CITY CLERK