

# COUNCIL MINUTES

February 20, 1996

The City Council of the City of Mesa met in a Regular Session in the Council Chambers, 57 East 1st Street, on February 20, 1996, at 5:30 P.M.

## COUNCIL PRESENT

Mayor Willie Wong  
Jerry Boyd  
Pat Gilbert  
T. Farrell Jensen  
Dale Johnson  
Joan Payne  
Jim Stapley

## COUNCIL ABSENT

None  
  
POLICE OFFICER  
  
Robert Dawson

## OFFICERS PRESENT

C.K. Luster  
Neal Beets  
Barbara Jones

The Invocation was given by Councilmember Jim Stapley.

The Pledge of Allegiance was led by Michael Sweeney, Boy Scout Troop No 962.

(Items on the agenda were discussed out of order but for purposes of clarity will remain as listed on the agenda.)

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

It was moved by Councilmember Boyd, seconded by Councilmember Gilbert, that the minutes of February 2, 5, and 9, 1996, 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 or a citizen present. All items identified in these minutes with an asterisk (\*) were approved with one Council action.

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

Carried unanimously.

3. Conduct a public hearing concerning a program utilizing photo radar implementation.

Mayor Wong announced that this is the time and place for a public hearing regarding a program utilizing photo radar.

Mesa Police Lieutenant Richard Clore provided information concerning the Police Department's proposal to adopt a three-year photo radar traffic enforcement pilot program in Mesa. Lieutenant Clore advised that the primary goal of the Department's proposal is to create safer streets for Mesa's citizens by reducing traffic collisions by 50 percent at the end of three years. Lieutenant Clore cited accident statistics for Mesa for the past several years and advised that in 1995 Mesa recorded 37 collisions which resulted in 38 deaths. Lieutenant Clore added that the 1995 fatality rate represents a 41 percent increase over 1994.

Lieutenant Clore indicated that photo radar has been utilized for many years in the United States and other countries. Lieutenant Clore expressed the opinion that 205 additional Police Officers would be required to achieve the same results as the proposed photo radar program.

Lieutenant Clore advised that the proposal is supported by Police staff, including the Police Chief, and added that benefits of photo radar include:

- \* identification of violators in an accurate and objective manner;
- \* ability to record all speeders;
- \* reduction in risks associated with traffic stops to motorists and Police Officers;
- \* reduction in traffic enforcement costs;
- \* ability to monitor areas not generally conducive to conventional enforcement; increased driver awareness;
- \* ability of Police Officers to concentrate on other community efforts;
- \* placement of the cost of the program on the violator;
- \* development of a method of conducting research and collecting traffic data; and
- \* increased effectiveness of the Police Department.

In response to a question from Councilmember Gilbert, Lieutenant Clore stated the opinion that public perception is a critical element in the program. Lieutenant Clore added that photo radar must reduce traffic speeds and accidents in order for the program to be considered a success.

In response to comments from Councilmember Stapley, Lieutenant Clore indicated that the greatest number of accidents (63) in 1994 occurred at the intersection of Country Club and Southern. Lieutenant Clore stated that 32 percent of the total reported accidents for that year were related to red light violations or failure to yield at an intersection. Lieutenant Clore expressed the opinion that intersection violations, either red light violations or failing to yield, and speeding on arterial streets must be addressed by the program in order to reduce the number of accidents in Mesa. Lieutenant Clore stated that staff's proposal includes ten intersection cameras and three to five speed cameras.

Vice Mayor Jensen commented that 35 police agencies across the country and in Canada were contacted for input by the Mesa Police Department. Vice Mayor Jensen stated the opinion that

many of the agencies commented positively about photo radar and reported fewer accidents as a result of its implementation.

In response to a question from Councilmember Boyd, Lieutenant Clore advised that staff's proposal enables the registered owner of a vehicle who has received a summons for a traffic violation to view the photograph of the driver. Lieutenant Clore said that if the registered owner is not photographed, the violation is dismissed and the owner is relieved of further responsibility.

Mayor Wong advised that the following citizens were unable to attend the public hearing but requested that their names be read into the record in support of or opposition to photo radar implementation in Mesa:

Citizens in Opposition

Helen Callahan  
Alice Fair  
Howard Foreman  
Brett Hall  
Dan Lane  
Darrell Lott

Citizens in Support

Tim Powell  
Mark Sokol

Police Chief Lars Jarvie advised that accident rates have increased significantly in Mesa and stated that the goal of the Police Department is to promote public safety. Chief Jarvie said that research into photo radar included contact with other police agencies that have experience with the technology. Chief Jarvie introduced Paradise Valley Police Chief John Wintersteen.

Chief Wintersteen, 6401 E. Lincoln Drive, Paradise Valley, referred to a report detailing the utilization of photo radar by the Town of Paradise Valley. Chief Wintersteen advised that the number of accidents has significantly decreased since photo radar's implementation in 1987 and added that collisions decreased the first year from 411 to 281 incidents. Chief Wintersteen stated that photo radar is not intended to increase revenue and that Paradise Valley Police Officers support the program. Chief Wintersteen added that the technology has resulted in a substantial reduction in Police pursuits in Paradise Valley and an increase in safety for the citizens and Police Officers.

Patti Torres, 921 W. University Drive, stated that she supports implementing photo radar in Mesa. Ms. Torres expressed the opinion that the technology has proven effective and efficient and is not a burden on taxpayers. Ms. Torres requested that the Council approve staff's proposal.

Steven Bacs, 6563 E. Presidio Street, stated that he represents the National Motorists Association (NMA) and does not support photo radar. Mr. Bacs advised that he has offered alternatives to photo radar to the Mesa Police Department and added that he will continue to explore methods of traffic enforcement. Mr. Bacs stated the opinion that photo radar infringes upon the constitutional rights of citizens and listed disadvantages to photo radar including:

- \* reduction of a driver's ability to prepare an effective defense;
- \* presumption that the owner of the vehicle is guilty of a violation;
- \* loss of personal contact between a Police Officers and citizens which is contrary to Mesa's community policing concept;
- \* temptation for a municipality to utilize the program for revenue generation as photo radar may produce the most citations for the least amount of effort;
- \* the probability that many impaired drivers may be undetected;
- \* a perception of photo radar as intimidating; and
- \* the loss of Police Officer discretion.

Mr. Bacs expressed the opinion that administering traffic fines does not increase traffic safety. Mr. Bacs advised that in 1990 the American Civil Liberties Union ruled that a person cannot be found guilty of a traffic violation if they do not respond to a mail summons. Mr. Bacs theorized that for this reason, citizens who receive a summons in the mail will simply not respond. Mr. Bacs listed cities and towns that have chosen not to implement photo radar and discussed some of the reasons officials report that the technology is not acceptable.

Mr. Bacs expressed the opinion that Paradise Valley's major road widening from two to four lanes, which occurred at the same time that photo radar was implemented, contributed significantly to the Town's reduced accident rate. Mr. Bacs discussed the City of Peoria's 18-month trial use of photo radar that was unsuccessful and stated that when the City canceled its contract with the vendor, it paid a \$50,000 cancellation penalty.

Mr. Bacs expressed the opinion that traffic fatalities do not represent a critical issue in Mesa at this time. Mr. Bacs stated the opinion that citizens will avoid the radar device intersections Mr. Bacs added that of the 35 agencies that responded to the Police Department's inquiries, only three cited accident statistics and expressed the opinion that a cause-and-effect relationship has not been proven.

In response to questions from Vice Mayor Jensen, Mr. Bacs said that the NMA's goal is to protect the rights of the average motorist. Mr. Bacs expressed the opinion that from a constitution viewpoint, it is critical that Police Officers issue citations personally, and added that personal contact may lead to the detection of other offenses, such as Driving while Under the Influence. Mr. Bacs stated that a study indicating a direct correlation between accident rates and photo radar has not been undertaken.

Councilmember Gilbert requested clarification concerning motorists' rights and the manner in which photo radar infringes upon the rights of motorists who are not speeding. Mr. Bacs advised that motorists should have the right to conduct their daily business without being observed by the government. Mr. Bacs stated that while motorists do not have the right to exceed the speed limit, speeding may result from numerous factors and Police Officers should utilize judgement when determining whether to issue a citation. Mr. Bacs said that should an in-depth study be conducted that demonstrates a direct correlation between photo radar and reduced speeding, he would support photo radar implementation.

In response to a question from Councilmember Payne, Mr. Bacs advised that he discussed photo radar with Councilmember Payne approximately five weeks ago on five to eight separate occasions. Councilmember Payne expressed appreciation to Mr. Bacs for his presentation.

Councilmember Payne commented that responses from the 35 police agencies contacted yielded few statistics which indicated that photo radar reduced traffic accidents. Councilmember Payne expressed the opinion that of the 37 fatal accidents in Mesa last year, only four may have been avoided as a result of utilizing photo radar.

Mr. Bacs referred to a report concerning the effects of raising and lowering the speed limit and advised that the study revealed that adjusting speed limits had minor effect on motorists' speed. Mr. Bacs added that lowering speed limits did not reduce accidents but did increase violations which in turn increased city revenue.

Phillip Lowry, 2023 W. Guadalupe, stated that he supports photo radar implementation in Mesa. Mr. Lowry expressed the opinion that photo radar would provide substantially increased traffic enforcement without the added cost of hiring additional Police Officers. Mr. Lowry concurred with Mr. Bac's statement that photo radar eliminates personal contact but added that without adequate Police personnel, the majority of speeding violators are not apprehended. Mr. Lowry stated that he is unaware of a court case which states that photo radar is a violation of an individual's civil rights and commented on the existence of surveillance cameras in convenience stores and banks. Mr. Lowry expressed the opinion that photo radar has been successful in many communities and is worthy of a trial period. Mr. Lowry added the opinion that the number of traffic accidents in Mesa is approaching a crisis situation and urged the Council to approve staff's proposal.

Tim Sharp, 6334-55 East Viewmont, stated opposition to photo radar. Mr. Sharp indicated that he has taught defensive driving for ten years and expressed the opinion that traffic accidents in Mesa occur for a variety of reasons, including running red lights, inattentive behavior, improperly pulling out into traffic, merging into traffic, and left-hand turns into oncoming traffic. Mr. Sharp stated the opinion that speeding violations require the judgment of a Police Officer at the point of infraction and requested that the Council deny staff's proposal.

(At 7:00 P.M. Mayor Wong advised that the remainder of this item will be addressed at the end of the agenda. Discussion on this item resumed at 9:25 P.M.)

Luule Brandofino, 61 South Macdonald, posed questions to the Council regarding the staff's proposal. Ms. Brandofino expressed the opinion that when drivers are informed of the location of radar devices, they will avoid those areas and travel on residential streets. Ms. Brandofino expressed concern for the safety of neighborhood children who play in the residential streets.

Joe Guinn, 126 West 7th Place, voiced objection to photo radar implementation in Mesa. Mr. Guinn stated that he visited the main Police Station on several occasions during a one-day period and observed numerous unoccupied patrol vehicles in the parking lot. Mr. Guinn stated the opinion that photo radar would not be necessary if Police Officers utilized the patrol cars efficiently.

Bill Brando, 61 South Macdonald, stated that he attended numerous traffic control meetings throughout the years and opposes photo radar. Mr. Brando expressed the opinion that when vehicles waiting to turn left in an intersection yield the right-of-way to oncoming traffic after the signal has changed, the device will be activated and the vehicles' owners cited. Mr. Brando stated the opinion that photo radar is discriminatory since it only affects motorists traveling in

the area in which the devices are located, only photographs drivers of automobiles without tinted windows, and only cities individuals who do not deny that they were driving the vehicle. Mr. Brando added that photo radar would cost Mesa taxpayers approximately \$200,000 per year in additional staffing costs. Mr. Brando expressed the opinion that activation of photo radar would not result in less speeding and in fact would be less effective than a Police Officer's pursuit of a speeder. Mr. Brando added the opinion that photo radar is not equitable to the majority of Mesa's citizens.

Mr. Brando recommended that speeding be designated a criminal offense, such as Driving Under the Influence, and that Police Officers enforce tougher penalties when violators are apprehended. Mr. Brando further recommended that speed bumps be constructed in problem intersections and school crossings.

Donald Moss, 130 North Robson, stated that he is a detective with the Mesa Police Department's Traffic Unit and supports photo radar. Detective Moss provided information concerning the number of traffic units assigned to problem areas throughout the City. Detective Moss advised that Police Officers spend approximately 85% of their time patrolling residential areas and expressed the opinion that photo radar is an efficient, effective enforcement tool.

Gary Brown, 2737 East Hale, relayed his experience with photo radar in the Town of Paradise Valley. Mr. Brown stated that he was required to take a half day off of work to respond to a mail summons and discovered that the vehicle in the photograph did not belong to him. Mr. Brown expressed the opinion that photo radar is ineffective and urged the Council to deny staff's proposal.

Ray Smith, 1251 East Jensen, stated that he does not support photo radar in Mesa. Mr. Smith expressed the opinion that a majority of accidents occur as a result of right-hand turns and added the opinion that speeding is not a crime unless it endangers lives or property. Mr. Smith added that photo radar is considered to be a franchise and said that a municipality may not grant a franchise without a vote of the citizens.

Jim Cavender, 1610 North 26th Street, stated that the Town. of Paradise Valley does not rely on sales tax for revenue while the City of Mesa depends on generated sales tax revenues. Mr. Cavender expressed the opinion that photo radar will discourage citizens from other communities from shopping in Mesa and sales tax revenues will decline. Mr. Cavender recommended that additional Police Officers be assigned to traffic control and added that should the City implement photo radar, the revenue collected should be returned to the City's utility fund.

Mike Graves, 7911 East Irwin, expressed appreciation to the National Motorists' Association for their presentation. Mr. Graves spoke in opposition to the implementation of photo radar and suggested that lagging left hand turn signals be located at problem intersections. Mr. Graves further recommended that the daily of tasks of Police Officers be reorganized to increase the amount of time spent patrolling the community. Mr. Graves stated the opinion that this issue requires additional analysis and added the opinion that photo radar would infringe on the constitutional rights of Mesa's citizens.

Mayor Wong expressed appreciation to the citizens for their comments and reported that an additional public hearing on this issue will be held on March 4, 1996, at 5:30 p.m. Mayor Wong advised that those citizens who were not in attendance at the time their names were called, will have an opportunity to address the Council at the beginning of the agenda item.

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

4. Acknowledge recent of minutes and meetings of various boards and committees and consider action where appropriate.

- \*a. Adjustment Board meeting - February 6, 1996
- \*b. Design Review Board meeting - February 7, 1996
- \*c. Downtown Development Committee meeting - February 15, 1996
- \*d. Deleted.
- e. Joint Downtown Development Committee meeting and Redevelopment Committee meeting - February 15, 1996

Recommend that the five steps outlined in the attached February 12, 1996 letter prepared by Mr. Pew on behalf of the Voit Companies, relative to the Centennial Center/Northeast Quadrant Development Master Plan be approved and that the City expend funds in an amount not to exceed \$10,000 to cover the cost of architectural and design services for preparation of the conceptual plan.

In response to questions posed by Mesa citizen Bill Brando, 61 South Macdonald, City Attorney Neal Beets expressed the opinion that a conflict of interest does not exist with regard to the Voit Companies' law firm, Killian, Nicholas, Fischer, Wirken, Cook & Pew.

It was moved by Councilmember Boyd, seconded by Councilmember Stapley, that the recommendation of staff be accepted.

Carried unanimously.

- \*f. Library Advisory Board meeting - February 6, 1996
- \*g. Parks and Recreation Board meeting - February 8, 1996

5. Consider the following liquor license application:

- \*a. DONALD R. LIEM, PRESIDENT OF BOARD OF DIRECTORS

Special Event License application of Donald R. Liem, President of Board of Directors, for Friends of the Orphans, a one-day charitable event to be held on Thursday, February 22, 1996, from 11:00 a.m. to 9:00 p.m., at 7555 E. Eagle Crest Drive, Las Sendas Golf Club.

\*b. CHARLES JOHN APPEL, PRESIDENT

Special Event License application of Charles John Appel, President, for Mobile Nobles Shrine Club, a one-day fraternal event to be held on Wednesday, March 27, 1996, from 11:00 a.m. to 4:00 p.m., at 4900 E. McKellips Road, Falcon Field Park.

\*c. DENNIS R. HOOD, AGENT

Person and location transfer Liquor Store License for Fry's Food & Drug #55, 1915 S. Power Road. This transfer is from Champa N. Patel, Individual, Boot Leg Liquors, 7841 E. McDowell Road, Scottsdale, to Dennis R. Hood, Agent, Fry's Food Stores of Arizona, Inc, 1915 S. Power Road, Mesa.

\*d. MICHAEL K PETERSON, AGENT

Person transfer Liquor Store License for Southwest Supermarkets, 450 S. Country Club Drive. This transfer is from Michael J. Peterson, Agent, Southwest Supermarkets, Inc. to Michael J. Peterson, Agent, Southwest Supermarkets, LLC.

e. SUE A. DINES, AGENT

New Beer and Wine Store License for Express Stop, NW Corner Baseline Road and Stapley Drive. This is a new business, currently there are no liquor licenses at this location.

Councilmember Stapley indicated opposition to the granting of liquor licenses to establishments that sell alcohol and gasoline. Councilmember Stapley advised that for this reason he will not support Agenda Items 5. e., 5. f., 5. g., and 5. h.

It was moved by Councilmember Gilbert, seconded by Councilmember Johnson, that this New License application be approved.

Upon tabulation of votes, it showed:

AYES - Wong-Boyd-Gilbert-Jensen-Johnson-Payne

NAYS - Stapley

The Mayor declared the motion carried by majority vote.

f. SUE A. DINES, AGENT

New Beer and Wine Store License for Express Stop, NE Corner Power Road and Superstition Springs Boulevard. This is a new business, currently there are no liquor licenses at this location.

It was moved by Vice Mayor Jensen, seconded by Councilmember Gilbert, that this New License application be approved.

Upon tabulation of votes, it showed:

AYES - Wong-Boyd-Gilbert-Jensen-Johnson-Payne  
NAYS - Stapley

The Mayor declared the motion carried by majority vote.

g. PHILLIP EDWARD HERNANDEZ, AGENT

New Beer and Wine Store License for Jiffy Mart, 804 N. Country Club Drive. The license previously held at this location by Edward L. Hernandez, Agent, Jiffy Mart, Inc., will revert back to the State,

It was moved by Councilmember Boyd, seconded by Councilmember Gilbert, that this New License application be approved.

Upon tabulation of votes, it showed:

AYES - Wong-Boyd-Gilbert-Jensen-Johnson-Payne  
NAYS - Stapley

The Mayor declared the motion carried by majority vote.

h. KEVIN LEE SCHWEITZER, ETAL

New Beer and Wine Store License for Main Stop, 2760 E. Main Street. The license previously held at this location by John Daiza, Individual, Main Stop, will revert back to the State.

It was moved by Councilmember Boyd, seconded by Vice Mayor Jensen, that this New License application be approved.

Upon tabulation of votes, it showed:

AYES - Wong-Boyd-Gilbert-Jensen-Johnson-Payne  
NAYS - Stapley

The Mayor declared the motion carried by majority vote.

\*i. ANNA VALENCIA, AGENT

New Restaurant License for Bahia De Kino, 1040 W. Broadway Road. The license previously held at this location by Dale Harris Olson, Individual, Spanky's, business closed October 31, 1994.

\*j. PARVIZ MOGHIMI, AGENT

New Restaurant License for Bssghetti, 1656 S. Alma School Road. The license previously held at this location by Lee Cohn, Agent, East Side Restaurant Limited Liability Company, will revert back to the State.

\*k. KI KYUN PAK, INDIVIDUAL

New Restaurant License for Ichi Ban Japanese Restaurant, 2015 S. Alma School Road. The license previously held at this location by Edgar L. Goddard, Agent, Bill Austin's Inc., business closed December 31, 1993.

\*l. LYNN WHITEFORD, AGENT

New Restaurant License for JB's Restaurant, 6810 E. Main Street. This is an existing business, no previous liquor licenses at this location.

\*m. LYNN WHITEFORD, AGENT

New Restaurant License for JB's Restaurant, 2801 E. Main Street. This is an existing business, no previous liquor licenses at this location.

6. Consider the following contracts:

\*a. Landscape Maintenance Services for Parks & Retention Basins - Zones 3 and 4 as requested by the Parks Maintenance Division.

The Purchasing Division recommends accepting the low bid for Zones 3 and 4 by AAA Landscape, at a combined award of \$327,472.25 based on current estimated requirements.

\*b. One-year renewal of the annual supply contract for traffic paint as requested by the Transportation Division.

The Purchasing Division recommends exercising the first of two one-year renewal options with the original low bidder by Pervo Paint Company at \$109,006.20 plus 5 percent use tax of \$5,450.31 for a total award of \$114,456.51 based on estimated requirements.

\*c. Twelve internally illuminated street name signs as requested by the Transportation Division.

The Purchasing Division recommends exercising an additional purchase option from RFB #95019 with the low bidder, Fluoresco Lighting-Sign at \$26,581 plus 7.05 percent sales tax of \$1,873.96 for a total of \$28,454.96.

\*d. 2,400 each 90 gallon capacity refuse containers used for residential refuse collection by the Solid Waste and Facilities Division.

The Purchasing Division recommends exercising an additional purchase option from RFB #95047 with the low bidder meeting specification, Option A from Toter, Inc. at \$110,280 plus 5 percent use tax of \$5,514 for a total of \$115,794.

- \*e. Activated carbon replacement project for the Primary Carbon Towers at the **NWWRP** as requested by the Utilities Operations Division.

The Purchasing Division recommends accepting the low bid meeting specification by Barnebey and Sutcliffe Corporation at \$52,890, including applicable taxes.

- \*f. One new heavy duty cab chassis for the Fire Department. This vehicle will be used as a ladder tender truck responding primarily to EMS calls.

The Purchasing Division recommends accepting the low bid by I-10 International Trucks at \$42,854.54 plus 7.05 percent sales tax of \$3,021.24 for a total of \$45,875.78.

- \*g. Annual supply contract for automotive air conditioning supplies requested by the Fleet Support Services Division.

The Purchasing Division recommends accepting the lowest overall bid by B and K Fleet Supply for annual purchases estimated at \$20,000.

- \*h. One replacement high volume copier for the Police Administration Division.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Danka/UniCopy at \$18,352 plus 6.95 percent sales tax of \$1,275.47 for a total of \$19,627.46.

- \*i. Two new Communications Consoles for the 911 Dispatch Center as requested by the Communications Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Durham Communications for 2 consoles at \$20,980 plus 5.75 percent sales tax of \$1,248.36 and installation of \$3,400, for a grand total of \$25,629.16.

- \*j. One helicopter engine overhaul as requested by the Police Department.

The Purchasing Division recommends accepting the apparent low bid by Standard Aero Inc. for repairs not to exceed \$95,000.

- \*k. Deleted.

- \*l. Twelve utility bodies as requested by Transportation, Electric, Parks, Recreation and Cultural Department and Utility Service. These bodies will be installed on recently purchased 3/4 and 1 ton trucks.

The Purchasing Division recommends accepting the low bid by Henderson Utility Equipment Company at \$22,134 plus 7.05 percent sales tax of \$1,560.44 for a total of \$23,694.44.

7. Introduction of the following ordinance and setting March 4, 1996, as the date for the public hearing on these ordinances.

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

- a. **DR96-24** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 1145 West University Drive. This request is by Foodmaker Incorporated for an existing building.

(Mayor Wong advised that the citizen who removed this item from the consent agenda was not present at this time to address his comments to the Council.)

It was moved by Councilmember Stapley, seconded by Vice Mayor Jensen, that an ordinance encompassing Design Review Case DR96-24 be introduced and that March 4, 1996 be set as the date for the public hearing on the ordinance.

Carried unanimously.

- \*b. **DR96-25** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 5961 East Main Street. This request is by Foodmaker Incorporated for an existing building.
- \*c. **DR96-26** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 1860 West Southern. This request is by Foodmaker Incorporated for an existing building.
- \*d. **DR96-27** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 440 East Southern Avenue. This request is by Foodmaker Incorporated for an existing building.
- \*e. **DR96-28** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 2846 East Main Street. This request is by Foodmaker Incorporated for an existing building.

- \*f. **DR96-29** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 1232 West Baseline Road.

This request is by Foodmaker Incorporated for an existing building.

- \*g. **DR96-30** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 2120 East Baseline Road. This request is by Foodmaker Incorporated for an existing building.

- \*h. **DR96-31** An application for a Council Use Permit pursuant to Section 11-13-2(L) of the City of Mesa Zoning Ordinance to utilize Exterior Building Illumination on a building at 1945 West Main Street. This request is by Foodmaker Incorporated for an existing building.

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

- \*a. **Z96-1** 6745 East Superstition Springs Boulevard. Rezone from R-3-DMP to R-3-DMP-PAD (14.12 acres). This case involves the conversion of a 240 unit apartment complex to condominiums. Mark Taylor Builders, owner; Ed Bull, applicant - Ordinance No. 3141.

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 Subdivision Technical Review Committee;
3. Compliance with all requirements of the Public Works Department (Engineering, Sanitation & Traffic Engineering, etc.);
4. 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); and
5. Notice be provided to future residents that the project is within 4 miles of Williams Gateway Airport and include a statement that additional information pertaining to aircraft operations and airport development may be obtained from the Williams Gateway Airport administration office.

- \*b. **Z96-2** The west side of South 70th Street approximately 200 feet north of Broadway Road. Rezone from C-2 and R-4-PAD to R-2-PAD and modification of an existing R-4-PAD (7.15 acres). This case involves the development of a patio home condominium subdivision containing 59 units. Ron McRae Group, owner; Ray Miller, applicant - Ordinance No. 3142.

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. Review and approval by the Planning and Zoning Board and City Council of future development plans;
  3. Compliance with all City development codes and regulations unless modified through the variations outlined in the staff report;
  4. Compliance with all requirements of the Public Works Department (Engineering, Sanitation & Traffic Engineering, etc.);
  5. All street improvements and perimeter landscaping to be installed in the first phase of construction;
  6. Compliance with all requirements of the Subdivision Technical Review Committee; and
  7. Dedicate the right-of-way required under the Mesa City Code at time of recordation of the subdivision plat or at the time of the City's request for dedication, whichever comes first.
- c. **Z96-4** 2500 East Southern Avenue. Rezone from R1-43 to O-S (1.6± acre). This case involves the modification of a single residence structure to include a chiropractic office. Clarence Freestone, owner/applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THE APPLICANT'S REQUEST.**

P&Z Recommendation: Denial. (Vote 6-1.)

Stan Turley, 2650 E. Southern Avenue, stated that he resides adjacent to the applicant and indicated that he supports the request for rezoning. Mr. Turley said that the applicant has requested rezoning several times over the past few years and added that six of the eight single-family homes in the area with access to Southern Avenue have applied for rezoning in the past.

Mr. Turley commented that the area has changed dramatically since the original homeowners purchased the property and expressed the opinion that the acre lots are no longer appropriate for families with small children. Mr. Turley stated the opinion that professional offices will not negatively impact the surrounding property but will be compatible with the neighborhood. Mr. Turley added the opinion that the potential rezoning of the vacant property to the south is not cause for concern by the neighbors since the Council will have the opportunity to thoroughly review all proposals.

Clarence Freestone, the applicant, advised that his request for office zoning for a chiropractic clinic will satisfy the daily needs of local residents while maintaining compatibility within the neighborhood. Mr. Freestone expressed the opinion that the property is no longer suitable for families with small children since the development of Southern Avenue as a major City road.

Mr. Freestone stated that, should his request be approved, any proposed changes to the property's use would require a public hearing. Mr. Freestone added that he does not intend to relocate from his home as his children have constructed a home adjoining his property. Mr. Freestone said that the proposed clinic will initially employ a receptionist and possibly two physicians in the future. Mr. Freestone provided details concerning parking, block fencing, security, ground level signage and landscaping.

In response to a question from Councilmember Gilbert, Mr. Freestone advised that the rezoning request encompasses the entire lot.

Planning Director Frank Mizner explained that when the applicant initially approached staff the rezoning request included only the front portion of the lot. Mr. Mizner advised that the back portion would then have been considered an illegal lot because of its size and lack of public access. Mr. Mizner said that the applicant's revised request combines the rear lot with his children's adjoining lot to the north. Mr. Mizner noted that staff does not object to this plan but added that this proposal may not address a number of neighbors' concerns.

In response to questions from Councilmember Gilbert, Mr. Mizner explained that a proposed ordinance is pending which will address office zoned uses. Mr. Mizner provided a history of zoning requests for the area and advised that in 1994 a rezoning request was received for the purpose of operating a wedding chapel. Mr. Mizner stated that similar concerns were expressed by the neighbors at that time and that a Council Policy Session was conducted in an attempt to reach a consensus relative to appropriate land use patterns. Mr. Mizner said that the Council agreed to evaluate such requests on a case-by-case basis without setting specific direction.

Ron Evans, 1025 S. Lyn Rae Square, stated opposition to the applicant's request. Mr. Evans expressed the opinion that it is difficult to enter and exit from Lyn Rae Square due to traffic congestion. Mr. Evans added the opinion that should the request be approved, a precedent will be set for future rezoning and that office or commercial zoning will compound traffic congestion.

Vice Mayor Jensen expressed the opinion that the proposed chiropractic clinic will not significantly impact traffic in the area.

J.D. Boren, 1051 S. Lyn Rae Square, stated the opinion that commercialization of the homes along Southern Avenue may not increase traffic volume but will increase traffic accidents. Mr. Boren expressed the opinion that there are a significant number of entrances and exits onto Southern Avenue from the neighborhood and added the opinion that the City has an obligation to protect the homeowners. Mr. Boren stated the opinion that businesses in the area will operate with the intent to increase volume.

Mr. Boren requested that staff conduct a traffic study to determine the impact of the applicant's request and potential subsequent requests on the surrounding neighborhood. Mr. Boren stated the opinion that staff recommended that approval of the applicant's request be delayed pending rezoning of the south side to encourage neighborhood compatibility.

Frank Little, 2424 E. Southern Avenue, commented on the changes that have occurred in the area since he purchased his property 29 years ago. Mr. Little expressed the opinion that the applicant's request will not appreciably change the nature of the area. Mr. Little advised that he will also be requesting office zoning of his property.

Robert Crum, 1027 S. Lyn Rae Square, stated opposition to the rezoning request. Mr. Crum expressed the opinion that the homes are large enough to accommodate a number of offices and that the result will be increased traffic volume. Mr. Crum expressed concern that changing the nature of the area from residential to commercial will cause property values to decline. Mr. Crum requested that the Council deny the applicant's request.

Tom Mann, 1120 S. Lyn Rae Square, concurred with the remarks of the previous speaker. Mr. Mann expressed concern that other property owners in the area will request office zoning and that traffic accidents along Southern Avenue would increase.

Ty Rowley, 2517 E. Florian, stated that he is the son-in-law of the applicant and owns the adjoining property. Mr. Rowley stated that his home is closer to Mr. Freestone's home than any of the property owners on Lyn Rae Square and that he does not object to the rezoning request. Mr. Rowley suggested that the solution to the traffic volume along Southern Avenue may be to place a ramp onto the Superstition Freeway at Lindsay Road. Mr. Rowley urged the Council to approve the applicant's request.

Jim Nelson, 2525 E. Florian, advised that his residence is located directly behind the applicant's house and added that he objects to the rezoning request. Mr. Nelson stressed the importance of preserving the area as one of the few existing prime low density residential areas in the City. Mr. Nelson concurred that the existing traffic volume is significant along Southern Avenue but stated the opinion that spot rezoning is not an appropriate solution. Mr. Nelson offered alternatives, such as reducing the speed limit and constructing noise walls or landscape buffers to reduce the impact of the traffic. Mr. Nelson expressed the opinion that rezoning certain properties will result in a devaluation in the remaining residential properties and added that many of the property owners have made long term investments and intend to retire in the homes. Mr. Nelson stated the opinion that there is sufficient office space in the immediate vicinity and no need exists for additional office zoning.

In response to a question from Councilmember Gilbert, Mr. Mizner described the zoning of the property surrounding 2500 East Southern Avenue.

Councilmember Boyd expressed the opinion that streets such as Southern, University, and Dobson will generate additional traffic regardless of the zoning of adjacent properties. Councilmember Boyd stated that increased traffic is inevitable due to the City's rapid population growth.

J.D. Boren readdressed the Council. Mr. Boren expressed concern that if the Council approves office zoning on the north side of Southern Avenue, a developer may apply for rezoning of the south side for higher density commercial in the future. Mr. Boren stated the opinion that if the current request is delayed, the southern parcel will be developed in a manner that is more compatible with the neighborhood.

Councilmember Boyd stated that office zoning currently exists adjacent to the entrance into Lyn Rae Square and expressed the opinion that the corner parcel will be zoned commercial in the future.

In response to a question from Councilmember Gilbert, Mr. Mizner advised that should the Council approve the applicant's rezoning request, staff will meet with the applicant and develop an ordinance for introduction at the March 4, 1996 Regular Council Meeting. Mr. Mizner added that staff will review a number of development criteria and include standard conditions in the proposed ordinance.

In response to questions from the Council, Public Works Manager Harry Kent advised that in the City's five-year plan, staff is proposing to widen Southern Avenue in the area under discussion to six lanes.

Councilmember Boyd commended staff, the applicant and the neighbors for attempting to arrive at a compromise solution. Councilmember Boyd stated that he previously voted in opposition to the rezoning request but will support the application at this time.

It was moved by Councilmember Boyd, seconded by Councilmember Johnson, that the zoning change be approved.

Councilmember Gilbert stated that although he will support the motion, he would request that office uses be more rigorously defined in the Zoning Ordinance. Councilmember Gilbert stated that a stricter interpretation may decrease the potential for office-zoned properties to operate businesses which exceed the boundaries of compatibility with residential neighbors.

Mayor Wong advised that he will not support the motion and expressed the opinion that approval of the applicant's request will result in additional rezoning requests.

Upon tabulation of votes, it showed:

AYES - Boyd-Gilbert-Jensen-Johnson-Payne-Stapley  
NAYS - Wong

The Mayor declared the motion carried by majority vote.

(At 9:15 P.M. the Mayor called for a recess and the meeting reconvened at 9:25 P.M. to continue the photo radar public hearing.)

\*d. **Z96-5** 6704 East Brown Road. Rezone from R1-9 to O-S (.9 acre). This case involves development of a veterinary clinic. Neil P. Farrington, owner/applicant - Ordinance No. 3143.

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 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 time of application for a building permit, or at the time of the City's request for dedication whichever comes first;
5. Compliance with all requirements of the Design Review Board; and
6. Compliance with the letter dated January 5, 1996 which is included in the zoning case file.

- \*e. **Z96-6** 536 North Country Club Drive. Site Plan Modification (1± acre). This case involves the development of an auto service facility. Shults Insurance & Investment Co., owner/applicant - Ordinance No. 3144.

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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.

- \*f. **Z96-8** The 5400 through 5800 blocks of East Southern Avenue - south side. Rezone from R1-9 and R1-15 to R1-9-PAD and R-3 (160± acres). This case involves the development of a single residence community with 430± lots and a 300± unit apartment complex. LKY Development and Ralph Dutton, owners; Fulton Homes, applicant - Ordinance No. 3145.

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. Review and approval by the Planning and Zoning Board and City Council for the R-3 parcel;
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 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 the Design Guidelines submitted by the applicant; and
7. Documentation being part of the C. C. & R.'s which would prohibit the optional casita from being leased or rented.

9. Consider the following subdivision plats:

- \*a. "Fry's Superstition Springs Center". The 1900 block of South Power Road (east side) 6 C-2 DMP commercial lots (14.83 acres). Dillon Real Estate Co. Inc. and A & C Properties, Inc., developers; Neil/McGill Consultants, Inc., engineer.
- \*b. "Mesa Desert Heights III". The 2900 block of North 64th Street (west side) 14 R1-9 single residence lots (5.0 acres). Allen/Houston Partners, developer; Allen Consulting Engineering, Inc., engineer.

- \*c. "The Groves of Hermosa Vista". The 2100 block of East Hermosa Vista Drive (north side) 103 R1-15 single residence lots (51.15 acres). The Groves of Hermosa Vista, L.L.C., developer; Allen Consulting Engineers, Inc., engineer.
- \*d. "Hermosa Vista Views III". The 2300 block of North Lindsay Road (west side) 16 R1-9 single residence lots (5.25 acres). Richard Yetter, Richard Jenkins, John Jenkins, Daniel Jenkins, Rebecca Jenkins and Barbara Jenkins, developers; C. L. S. & E. Consulting Land Surveyors and Engineers, engineer.

10. Adjournment.

It was moved by Councilmember Stapley, seconded by Councilmember Boyd, that the meeting adjourn at 10:17 P.M.

Carried unanimously.

WILLIE WONG, 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 Meeting of the City Council of Mesa, Arizona, held on the 20th day of February, 1996. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 7<sup>th</sup> day of March 1996

BARBARA JONES, CITY CLERK