



COUNCIL MINUTES

February 22, 2016

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on February 22, 2016 at 6:06 p.m.

COUNCIL PRESENT

John Giles
Alex Finter
Dennis Kavanaugh
David Luna
Dave Richins
Kevin Thompson

COUNCIL ABSENT

Christopher Glover

OFFICERS PRESENT

Christopher Brady
Jim Smith
Dee Ann Mickelsen

Mayor Giles excused Councilmember Glover from the entire meeting.

Mayor's Welcome.

Invocation by Very Reverend Father James Coles with St. Ignatius Orthodox Church.

Pledge of Allegiance was led by Councilmember Thompson.

Awards, Recognitions and Announcements.

There were no awards, recognitions or announcements.

1. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Luna, that the consent agenda items be approved.

Mayor Giles declared the motion carried unanimously by those present.

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

Minutes from the January 21 and February 8, 2016 Council meetings.

3. Take action on the following liquor license applications:

*3-a. St. Bridget Catholic Church

This is a one-day religious event to be held on Saturday, March 5, 2016 from 6:00 p.m. to 9:00 p.m., at 2213 North Lindsay Road. **(District 1)**

*3-b. Sun Sounds Foundation

This is a one-day charitable event to be held on Saturday, April 2, 2016 from 4:00 p.m. to 9:00 p.m., at 2330 West Rio Salado Parkway. **(District 1)**

*3-c. The Care Fund

This is a one-day charitable event to be held on Saturday, April 9, 2016 from 4:00 p.m. to 10:00 p.m., at 10100 East Ray Road. **(District 6)**

*3-d. Ultimate Imaginations

This is a one-day charitable event to be held on Saturday, March 5, 2016 from 2:00 p.m. to 7:00 p.m. on Macdonald from Main Street to 1st Avenue. **(District 4)**

*3-e. Arizona Humane Society

This is a one-day charitable event to be held on Friday, March 4, 2016 from 6:00 p.m. to 9:00 p.m., at 10100 East Ray Road. **(District 6)**

*3-f. Sun City Area Interfaith Services, Inc.

This is a one-day charitable event to be held on Thursday, March 17, 2016 from 4:30 p.m. to 8:00 p.m., at 1452 South Ellsworth Road. **(District 6)**

*3-g. Sunland Springs Snack Bar

A golf course snack bar is requesting a new Series 7 Beer and Wine Bar License for Sunland Springs Village Golf Club Inc., 11061 East Medina Avenue – Jay Andreas Larscheid, agent. The existing license held by Golf Holding Company Inc. will be transferred to the applicant. **(District 6)**

*3-h. Big Sticks Fine Cigars

A retail tobacco store is requesting a new Series 7 Beer and Wine Bar License for Big Sticks LLC, 1907 West Main Street, Suite 4B – Jared Michael Repinski, agent. There is currently no existing license at this location. **(District 3)**

*3-i. Grab N Go 303

A convenience store with a gas station is requesting a new Series 10 Beer and Wine Store License for Sapra Enterprises LLC, 4360 East Broadway Road – Vaneet Sapra, agent. The existing license held by Baker Alloush, sole proprietor, will revert back to the State. **(District 2)**

*3-j. Mercado Mi Pueblo

A convenience grocery store is requesting a new Series 10 Beer and Wine Store License for Rajab LLC, 103 West 8th Avenue – Ahsan Abbas Bukhari, agent. The existing license held by Badshah LLC, will revert back to the State. **(District 4)**

*3-k. La Crab Shack

A restaurant that serves lunch and dinner is requesting a new Series 12 Restaurant License for La Crab Shack LLC, 1948 West Broadway Road, Suite 101 – Ngoc Hieu Thi Truong, agent. There is currently no existing license at this location. **(District 3)**

4 Take action on the following contracts:

*4-a. Dollar-Limit Increase to the Term Contract for Services for Solid Waste Disposal, Recyclable Material Processing and Vegetative Waste Processing for the Environmental Management and Sustainability Department. **(Citywide)**

Since the initial land contracts were initiated in 2014, there have been several price increases based on the agreement (refuse, green and recycle fee increases from multiple vendors), as well as City tonnage growth. The increase is needed to support the pricing changes and tonnage growth.

The Environmental Management and Sustainability Department and Purchasing recommend authorizing a dollar-limit increase of \$1,172,000 with Salt River Commercial Landfill Company, dba Salt River Landfill; Republic Services, dba Allied Waste Transportation, Inc.; Allied Transfer Services of Arizona, LLC; Allied Waste Transfer Services of Arizona, LLC; Waste Management of Arizona, Inc.; ReCommunity; United Fibers, LLC; and Waste Technologies, LLC, dba Right Away Disposal; increasing the contract amount from \$5,628,000 to \$6,800,000 annually, based on estimated requirements.

*4-b. Purchase of Two Replacement Sedans for the Fire and Medical Department. **(Citywide)**

The vehicles being replaced have met established criteria and will be retired and sold at auction.

The Fire and Medical Department and Purchasing recommend authorizing the purchase from the contract with Midway Chevrolet, at \$38,986.98. This purchase is funded by the Fire and Medical Capital budget.

*4-c. Three-Year Term Contract for Overhead Door Maintenance and Repair Services for the Parks, Recreation and Community Facilities Department. **(Citywide)**

The primary vendor will provide annual and biannual overhead door preventative maintenance service at Citywide facilities. The contract also provides repair and lifecycle replacement work, which will be competitively bid between the Primary and Secondary vendors.

The evaluation committee recommends awarding the contract to the highest scored proposals from Vortex Industries, Inc. (Primary) and Material Handling Services, dba

Miner Southwest (Secondary), cumulatively not to exceed \$100,000 annually, based on estimated requirements.

- *4-d. Three-Year Term Contract for Video Surveillance Equipment and Parts for the Police Department. **(Citywide)**

This contract will provide video surveillance equipment and parts to upgrade the video surveillance systems at various locations throughout the City. Police Department personnel will coordinate these purchases.

The Police Department and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidders: Affirmative Technology Group; Mark Joseph Perlmutter, dba Perlmutter Purchasing Power; and Tyco Integrated Security LLC; cumulatively not to exceed \$220,000 for Year 1, and \$150,000 annually for subsequent Years 2 and 3, based on estimated requirements. This purchase is funded by the Lifecycle Program and 2015 Edward Byrne Justice Assistance Grant (JAG) Program.

- *4-e. Dollar-Limit Increase to the Term Contract for Hach Equipment Maintenance Repair and Supplies for the Water Resources Department (Sole Source). **(Citywide)**

This contract provides factory service maintenance and repair for equipment from Hach Company located at several laboratories and the water reclamation plants. Several pieces of equipment have had to be rebuilt and other new pieces of equipment added that were not covered under the initial contract.

The Water Resources Department and Purchasing recommend authorizing a dollar-limit increase of \$50,000, increasing the annual contract amount from \$110,000 to \$160,000 in Year 1; and \$135,000 annually for Years 2 and 3, based on estimated requirements.

- *4-f. One-Year Renewal of the Term Contract for Uninterruptable Power Supplies (UPS) – Products, Maintenance and Repair Services for the Water Resources Department. **(Citywide)**

This contract provides UPS including products, maintenance and repair services to existing UPS equipment located at the Charles K. Luster Building, Southeast Water Reclamation Plant, Brown Road Water Treatment Plant, Signal Butte Water Treatment Plant, and Greenfield Water Reclamation Plant. Water Resources is currently working with the vendor to replace two critical UPS systems: one at the Charles K. Luster Building and one at the Greenfield Water Reclamation Plant.

The Water Resources Department and Purchasing recommend authorizing a one-year renewal with Titan Power, Inc., at \$45,000 annually, based on estimated requirements.

5. Take action on the following resolutions:

- *5-a. Approving and authorizing the City Manager to accept a grant award from the Arizona Automobile Theft Authority in the amount of \$30,000 for the Police Department's purchase of License Plate Reader analytical software and data subscription. **(Citywide)** – Resolution No. 10742.
- *5-b. Extinguishing a portion of an Easement for Water Line and a portion of an Easement for Sewer Line at 1255 East Southern Avenue. **(District 4)** – Resolution No. 10743.

The property owner has requested the City extinguish the unused portions of an Easement for Water Line and of an Easement for Sewer Line that are under existing building improvements in order to remove them from the property title.

- *5-c. Extinguishing a 20-foot Sewer Line Easement at Escobedo at Verde Vista Phase II located at 450 North Hibbert. **(District 4)** – Resolution No. 10744.

The developer is requesting that the City extinguish the easement to accommodate the development.

- *5-d. Extinguishing a vehicular non-access easement on Lot 407 of “Ridgeview Unit III-C”. **(District 5)** – Resolution No. 10745.

The property owner has requested the City extinguish a one-foot vehicular non-access easement on Lot 407 of “Ridgeview Unit III-C” to accommodate development.

- *5-e. Authorizing the issuance and sale of Utility Systems Revenue Refunding Bonds, Series 2016. **(Citywide)** – Resolution No. 10746.

- *5-f. Authorizing the defeasance and redemption of a portion of the City’s outstanding Utility Systems Revenue Bonds, Series 2006. **(Citywide)** – Resolution No. 10747.

- *5-g. Authorizing the issuance and sale of General Obligation Refunding Bonds Tax-Exempt, Series 2016A, not to exceed \$21,000,000. **(Citywide)** – Resolution No. 10748.

- *5-h. Authorizing the issuance and sale of General Obligation Refunding Bonds Taxable, Series 2016B, not to exceed \$24,000,000. **(Citywide)** – Resolution No. 10749.

6. Take action on the following resolutions relating to the sale of property located at 129 East University Drive and a Development Agreement with Save the Family Foundation of Arizona:

- *6-a. Approving and authorizing the sale of City-owned property located at 129 East University Drive to Save the Family Foundation of Arizona for the construction of a conference center, and authorizing the City Manager to execute the necessary documents. **(District 4)** – Resolution No. 10750.

- *6-b. Approving and authorizing the City Manager to enter into a Development Agreement with Save the Family Foundation of Arizona for the construction of a conference center located at 129 East University Drive. **(District 4)** – Resolution No. 10751.

7. Introduction of the following ordinances and setting March 14, 2016 as the date of the public hearing on these ordinances:

- *7-a. **Z15-033 (District 3)** 2210 West Southern Avenue. Located west of Dobson Road on the north side of Southern Avenue (0.65± acres). Rezone from OC to LC-BIZ; and Site Plan Review. This request will allow the development of commercial space with a drive-thru. Neil Feaser, RCAA Architects, Inc., applicant; Jeffrey D. Garrett, President, GDC San Jose and Southern, LLC, owner.

Staff Recommendation: Approval with conditions

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

- *7-b. **Z16-002 (District 2)** 1728 South Greenfield Road. Located South of US Highway 60 on the west side of Greenfield Road. Request for Council Use Permit. This request will allow installation of a multi-tenant Freeway Landmark Monument sign within the Greenfield Gateway commercial center. Charlie Gibson, applicant; Greenfield Gateway Retail Investments, LLC, owner.

Staff Recommendation: Approval with conditions

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

- *7-c. **Z16-005 (District 6)** 1200 block of South Crismon Road. Located south of Southern Avenue on the east side of Crismon Road (1± acres). Rezoning a portion of the development area from PEP to LC; and site plan modification. This request will allow for development of a restaurant with drive-thru. Lance Meinhold, Larson Associates, applicant; V J Crismon, LLC, owner.

Staff Recommendation: Approval with conditions

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

8. Discuss, receive public comment, and take action on the following ordinance:

- *8-a. Adopting schedules of terms, rates, fees and charges for City-owned solid waste utility service allowing for multi-year solid waste service agreement discounts for business and commercial establishments – Ordinance No. 5315.

Items not on the Consent Agenda

9. Discuss, receive public comment, and take action on the following ordinance and resolution to the property located in the 6400 block of East Test Drive:

- 9-a. **Z15-020 (District 6)** Ordinance for the 6400 block of East Test Drive. Located west of Power Road and south of US Highway 60. Modification of an existing PAD overlay in the LI zoning district; and Site Plan Modification (2± acres). This request will allow for the development of auto sales on Lot F. Wendy Riddell, Berry Riddell, LLC, applicant; Joseph and Jeanette M. Cardinale Revocable Trust, owner – Ordinance No. 5316.

Staff Recommendation: Approval with conditions

P&Z Board Recommendation: Approval with conditions (Vote: 4-3; Boardmembers Allen, Ikeda and Hudson, nay)

Mayor Giles stated that since items 9-a and 9-b were related to the same property, he would propose that the Council discuss both items together, after which time separate votes would be taken on each matter.

Wendy Riddell, an attorney with Berry Riddell, LLC and the applicant for the Cardinale Automotive Group, stated that she was requesting the elimination of Stipulation 16 in Ordinance No. 3889, which would permit the development of a new automotive dealership. She noted that she was further requesting the elimination of the stipulation to allow Cardinale to include a better lighting solution than was originally anticipated.

Ms. Riddell reported that beginning in May 2014, Cardinale has conducted a substantial amount of neighborhood outreach, including a number of open houses and public meetings, numerous calls, emails and one-on-one meetings with the residents of the nearby Superstition Lakes Condominiums.

Ms. Riddell briefly highlighted four separate development submittals that were made, with Submittals 2, 3 and 4 modified in response to concerns expressed by the Superstition Lakes Condominium Association (SLCA):

- Submittal 1 – The history of the site was taken into account, as well as the neighbors' concerns, by establishing a third of an acre of landscaped open space at the entry; orienting the buildings away from the SLCA; and locating all of the service components as far away as possible from the condominiums.
- Submittal 2 – Similarly landscaped open space at the entry; buildings were moved further to the west as functionally possible; the buildings were designed to appear more "office-like."
- Submittal 3 – The "Out of the Box Plan," included abandonment of Test Drive to create a private entry for the SLCA and to create a segregated separate entry for the auto mall. The submittal continued to include the previously proposed landscape buffer and an office-like feel in the design of the buildings. (Note: The SLCA preferred that the area be made into a park and presented design plans to the City. The SLCA also suggested that Cardinale develop the land as a public park and donate the property to the City of Mesa.)

Ms. Riddell further commented that on many occasions, the SLCA residents raised the issue of "a promise" in the 2001 zoning case, wherein the applicant agreed to a stipulation limiting the uses on the property to C-2 zoning in order to create an appropriate land use transition. She pointed out that there has been misinformation that the property was intended to just be a park. She stated that examples of some of the types of uses that are permitted by right in C-2 include automobile service and repair; commercial entertainment; bars, clubs and lounges; tattoo and body piercing; funeral parlors; and retail. She added that such uses were actually proposed as the actual land use transition in the 2001 zoning case.

Ms. Riddell discussed the fourth submittal, which is presented for the Council's consideration this evening. She said that the submittal, which was recommended for approval by the Planning & Zoning (P&Z) Board and City staff, takes into consideration all of the feedback Cardinale received from the SLCA. She cited the key components of the proposal as follows: Cardinale elected to leave one acre of the site as C-2, which will be developed for office space in the future and serve as a buffer for the adjacent condos; the dealership building was moved as far away as possible from the closest condominium unit (687 feet); the size and scale of the structure was reduced by 60%; the abandonment of Test Drive has been eliminated; it is proposed to improve the lighting from the standards that were available in 2001; all automotive repair uses will be enclosed within the building; and the dealership will be given the "look and feel" of an office building.

Ms. Riddell, in addition, remarked that the submittal was presented at an open house and all of the property owners within 1,000 feet (more than double the requirement), were notified. She stated that 13 people were in attendance, as well as a member of the P&Z Board and a Councilmember. She added that the submittal was also made available for review by the President of the SLCA.

Ms. Riddell indicated that she would suggest that the final submittal represents more than 20 months of work to create a reasonable solution that not only addresses the neighbors' concerns, but also permits the development of the property in a manner that benefits Mesa. She pointed out that the development has garnered significant support from the surrounding businesses that would like to see the vacant parcel put to good use. She also noted that the Economic Development Advisory Board (EDAB) has given their unanimous recommendation of approval for the project.

Ms. Riddell concluded her comments by noting that from an economic benefit perspective, the car dealership will make a \$2.7 million capital investment on the vacant and underutilized site; 25 jobs, with a combined annual base salary of \$2 million, will be created; and that the dealership could potentially generate \$1.4 million in annual sales tax and revenue for the City of Mesa.

Bryan Jefferies, representing the United Mesa Firefighters Association, expressed support for the development of a new automotive dealership. He concurred with Ms. Riddell that the dealership would generate significant sales tax revenue for Mesa. He also suggested that perhaps some of those dollars could be used to fund various public safety services that would benefit the entire community.

The following citizens spoke in opposition to agenda items 9-a and 9-b:

- David Peterson, a Mesa resident
- Johnette Davidson, a Mesa resident
- David Schueffner, a Mesa resident
- Nancy Schueffner, a Mesa resident
- Reuel Dorman, a Mesa resident
- James D. Claridge, a Mesa resident
- Michael Conner, a Mesa resident
- Dale Davidson, a Mesa resident

The citizens offered a series of comments including, but not limited to, the following:

- It is a moral imperative that the Council uphold Mesa's promise and covenant of May 21, 2001 found in Ordinance No. 3889, Stipulation No. 16.
- The SLCA residents would have preferred a garden office complex, medical facility or a fitness center on the proposed site as opposed to an automotive dealership.
- The SLCA residents who purchased condominiums relied on the protection that was guaranteed to them in 2001 via Ordinance No. 3889.
- The placement of an automotive dealership close to the condominium complex is inappropriate due to the garish lights, noxious odors and noisy delivery system.
- The proposed development is fundamentally inconsistent with the 2040 Mesa General Plan and not in compliance with the Plan's message of establishing great neighborhoods.
- Cardinale took a business gamble to buy Lots F and G and were aware of the language contained in Stipulation No. 16.
- Stipulation No. 16 references a 3.2 acre buffer zone between the condominium property and the closest automotive dealership.
- The proposed development, if approved by the Council, will result in the diminution of property values for the SLCA residents.
- There are more than enough automotive dealerships near the proposed development.

- The development of a park in the area would serve as a buffer for the SLCA residents.
- The lighting at the dealership negatively impacts the condominium residents.
- The delivery of vehicles at the dealership is done at odd hours of the night and early morning, which impacts the peace and quiet of the nearby condominium residents.
- Inquired whether agreements, which contain signatures and the City of Mesa seal, are temporary and can be changed by a vote of the P&Z Board or the City Council.
- The language in the proposed agreements (i.e., texturally inappropriate noise, smoke, dust and vibration) is vague.
- The SLCA residents have a right to a secure, protected, attractive and well-managed neighborhood free of repeating threats to have such rights brought into question at any time.
- The SLCA is not opposed to the development of this property, but simply request that it be developed as unobtrusively as agreed to in 2001.

Mayor Giles stated that the following citizens submitted speaker cards in opposition to the case, but did not wish to address the Council:

- Greg and Diane Fahey, Mesa residents
- Robert and Sharon Rozycki, Mesa residents

Councilmember Thompson commented that since January 2015 when he was first sworn into office, he has become familiar with the case, attended one of the public meetings and sent the plans back to the developer on numerous occasions because, in his opinion, they were not good enough. He also noted that he was somewhat disappointed that the SLCA residents opposed the third submittal, in which Cardinale was willing to install more than \$1 million in landscaping at the site and construct and maintain a private drive for the condominium residents.

Councilmember Thompson, in addition, stated the opinion that the developers have “bent over backwards” in order to accommodate the residents. He stated that after eight iterations of the plans, coupled with the residents still being opposed to the development, would indicate to him that they are simply not willing to reach a compromise. He indicated that for that reason, he would view the matter as a simple zoning change and would support the development of the automotive dealership.

Councilmember Finter recounted that he too was very familiar with the case, which dates back to 2001. He acknowledged the speakers for their efforts and hard work in this regard, but said that he would suggest to them that the Mayor and Councilmembers are their fellow citizens who have been asked to consider the case and make a decision. He also remarked that it was inferred that once the Council makes a decision, such a decision can never be changed. He noted that with respect to zoning issues, that was not the case. He said that he would always encourage parties to compromise in order to arrive at protections for all involved. He added that in his opinion, there has been a tremendous amount of give and take in this particular matter.

Councilmember Finter further remarked that he did not want anyone to feel as though they had been betrayed and “some solemn promise” violated. He reiterated that in Arizona, zoning and land use issues are very flexible and would suggest that the private property rights of one person are just as important as those of an individual who lives next door. He expressed support for the rezoning effort moving forward. He acknowledged that the compromise might not be perfect for everyone, but said that it enables all of the parties to have the highest and best use of their land.

It was moved by Councilmember Thompson, seconded by Councilmember Richins, that Ordinance No. 5316 be adopted.

Upon tabulation of votes, it showed:

AYES – Giles-Finter-Luna-Richins-Thompson
NAYS – Kavanaugh
ABSENT – Glover

Mayor Giles declared the motion carried by majority vote of those present and Ordinance No. 5316 adopted.

- 9-b. A resolution approving and authorizing the City Manager to enter into a Development Agreement with Joseph and Jeanette Cardinale Trust to facilitate commercial development on property located in the 6400 block of East Test Drive just south of US Highway 60 and west of Power Road. **(District 6)** – Resolution No. 10752.

(See discussion of this item under 9-a.)

It was moved by Councilmember Thompson, seconded by Councilmember Richins, that Resolution No. 10752 be adopted.

Upon tabulation of votes, it showed:

AYES – Giles-Finter-Luna-Richins-Thompson
NAYS – Kavanaugh
ABSENT – Glover

Mayor Giles declared the motion carried by majority vote of those present and Resolution No. 10752 adopted.

10. Items from citizens present.

There were no items from citizens present.

11. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:09 p.m.

JOHN GILES, MAYOR

ATTEST:

DEE ANN MICKELSEN, 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 22nd day of February, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

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