



## COUNCIL MINUTES

March 5, 2012

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on March 5, 2012 at 5:50 p.m.

### COUNCIL PRESENT

Scott Smith  
Alex Finter  
Christopher Glover  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

Dina Higgins

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Mayor Smith excused Councilwoman Higgins from the entire meeting.

Invocation by Reverend Stewart Lewis, Velda Rose United Methodist Church.

Pledge of Allegiance was led by Scout Dustin Maab, Troop # 253.

Mayor's Welcome.

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

Awards, Recognitions and Announcements.

Arizona Museum of Natural History (AzMNH) Director Tom Wilson reported that last year, the volunteers at the museum contributed 17,674 hours of service, which equates to \$368,500 of contributed labor and 8.5 Full Time Employees (FTEs).

Dr. Wilson stated that tonight, he would like to recognize a number of volunteers for their participation on the "Rulers of the Prehistoric Skies" exhibition, which included the creation of several flying reptiles. He cited, in particular, Ed Mack, who worked for seven months to create a model out of a Pteranodon fossil. Dr. Wilson remarked that also included in the exhibition was a model of Quetzalcoatlus, the largest animal ever to fly, which had a wingspan of 39 feet. He added that both items would become permanent exhibitions at the museum.

Dr. Wilson invited the volunteers who were present in the audience to stand and be recognized for their contributions and service not only to the museum, but also to the City of Mesa.

Mayor Smith expressed appreciation to the volunteers for their efforts and hard work at the Arizona Museum of Natural History which, in his opinion, is “a gem in our community and a point of pride.”

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.

Mayor Smith stated that he received several requests from citizens in the audience that item 5-b be removed from the consent agenda.

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

Mayor Smith declared the motion carried unanimously by those present.

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

Minutes from the January 9, February 9 and 27, 2012 Council meetings.

3. Take action on the following liquor license applications:

\*3-a. Desert Willow Environmental Education Center

This is a one-day charitable event to be held on Saturday, March 17, 2012, from 11:00 a.m. to 5:00 p.m. at 3440 South Hawes Road. **(District 6)**

\*3-b. Knights of Columbus All Saints Council 9485

This is a one-day fraternal event to be held on Saturday, March 10, 2012, from 3:00 p.m. to 7:00 p.m. at 1534 North Recker Road. **(District 5)**

\*3-c. Ultimate Imaginations Inc.

This is a one-day charitable event to be held on Saturday, April 14, 2012, from 8:00 a.m. to 5:00 p.m. on Macdonald between Pepper Place and Main Street. **(District 4)**

\*3-d. Arco AM/PM

New Beer and Wine Store License for Arco AM/PM, 1208 South Ellsworth Road, Three Sonz II LLC, - Bashir Adnan Beydoun, Agent. This location has a Beer and Wine Store License held by LGM Inc. that will revert back to the State. **(District 6)**

\*3-e. Cazo De Oro Mexican Restaurant

New Restaurant License for Cazo de Oro Mexican Restaurant, 1002 East Main Street, Odriel Garcia, Agent. This is an existing building without an active liquor license at this location. **(District 4)**

\*3-f. Chipotle Mexican Grill #1821

New Restaurant License for Chipotle Mexican Grill #1821, 2849 North Power Road, Suite 101, Chipotle Mexican Grill Inc., - H.J. Lewkowitz, Agent. This is an existing building without a previous liquor license at this location. **(District 5)**

\*3-g. La Cucina di Venti

New Restaurant License for La Cucina di Venti, 223 East Brown Road, Maglio Blu LLC – Michael D. Brown, Agent. This is an existing building without an active liquor license at this location. **(District 1)**

4. Take action on the following contracts:

\*4-a. Purchase of Two (2) Replacement Heavy-Duty Utility Trucks for the Fleet Services Department. **(Funded by FY 11/12 Vehicle Replacement Fund) (Citywide)**

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Sanderson Ford at \$133,585.40, including applicable sales tax.

\*4-b. Purchase of a Replacement Controller System for the Police Tactical Operations Robot. **(Sole Source) (Grant Funded by Arizona Department of Homeland Security) (Citywide)**

The Purchasing Division recommends awarding the contract to sole source vendor, Remotec, Inc., at \$59,008.43, including applicable sales tax, based on estimated requirements.

\*4-c. Upgrade Kellwood Electrical Substation, 218 South Extension Road. **(District 4)**

City Project 09-022-002. This project will install a second transformer-switchgear combination, install additional protective equipment that will bring the substation up to date with current industry standards, and replace aging 69kV equipment, which has reached the end of its useful life.

Recommend award to the lowest bidder, ESS International Corp., in the amount of \$1,070,131.00, plus an additional \$107,013.10 (10% allowance for change orders) for a total award of \$1,177,144.10. The total amount of \$1,177,144.10 is available in the FY 11/12 Electric Bond Program.

\*4-d. Mesa Vista Drainage Improvements Project, 6<sup>th</sup> Street at Dobson Road. **(District 3)**

City Project 10-556-001. This project will install a new 54-inch storm drain from Dobson Road, east 1,350 feet on 6<sup>th</sup> Street. The existing 27-inch storm drain that captures runoff

reaches capacity during minor rain events and floods local properties during heavy storm events.

Recommend award to the lowest bidder, The Fishel Company, in the amount of \$654,515.30, plus an additional \$65,451.53 (10% allowance for change orders) for a total award of \$719,966.83. Funding is available through a \$250,000 grant from the Flood Control District of Maricopa County, through their Small Project Assistance Program, and the remainder will be funded from the FY 11/12 Streets Bond Program.

- \*4-e. Authorize the Mayor to sign an Employment Agreement with Debbie Spinner, City Attorney.

5. Take action on the following resolutions:

- \*5-a. Approving and authorizing the City Manager to execute Grant Agreement with the Federal Emergency Management Agency (FEMA) to accept grant funds in the total amount of \$1,075,022, inclusive of a City match of \$215,004, for the purchase of portable radios, mobile radios, batteries, battery chargers and hand microphones for the partnership of the Mesa and Apache Junction Fire Departments – Resolution No. 9989. **(Citywide)**
- 5-b. **(See: Items not on the Consent Agenda.)**
- \*5-c. Approving and authorizing the City Manager to use the Street Assessment Statute Law (“Assessment Law”) to improve portions of Crismon Road. Improvements include pavement, curb and gutter, and sidewalk along portions of Crismon Road just south of Skyline High School. Portions of the roadway improvements front an undeveloped parcel at the northwest corner of the intersection of Crismon Road and East Forge Avenue. This Assessment Law allows the City to collect these costs as part of the development requirement if the Property develops in the next ten years – Resolution No. 9990. **(District 6)**
- \*5-d. Approving the modified Fees and Charges for the Parks, Recreation and Commercial Facilities Department – Resolution No. 9991.

6. Introduction of the following ordinances and setting March 19, 2012 as the date of the public hearing on these ordinances:

- \*6-a. **Z12-20 (District 3)** The 1000 to 1100 block of West Grove Avenue (north side). Located south of Southern Avenue and east of Alma School Road (5± acres). Rezone from LC PAD-BIZ-CUP to PS BIZ and Site Plan Review. This request will allow the development of a Police Station. City of Mesa, owner; Chris Scott, applicant. (PLN2011-00373)  
  
P&Z Recommendation: Approval with conditions. (Vote: 4-0-1, Boardmember DiBella abstained, Boardmembers Carter and Roberts absent.)
- \*6-b. **Z12-04 (District 5)** Parcel 5 at Mountain Bridge. Located north of McKellips Road and west of Ellsworth Road (17.5± acres). Rezone from RS-35-PAD to RS-43-PAD-PAD and Site Plan Review. This request will allow the development of a single-residential

subdivision. Pinnacle Ridge Holdings, LLC, owner; Paul Dugas, applicant. (PLN2012-00002)

P&Z Recommendation: Approval with conditions. (Vote: 5-0, Boardmembers Carter and Roberts absent.)

- \*6-c. **Z12-05 (District 5)** Parcel 6 at Mountain Bridge. Located north of McKellips Road and west of Ellsworth Road (21.2± acres). Rezone from RS-35-PAD to RS-15-PAD-PAD and Site Plan Review. This request will allow the development of a single-residential subdivision. Pinnacle Ridge Holdings, LLC, owner; Paul Dugas, applicant. (PLN2012-00003)

P&Z Recommendation: Approval with conditions. (Vote: 5-0, Boardmembers Carter and Roberts absent.)

- \*6-d. **Z12-06 (District 5)** Parcel 8 at Mountain Bridge. Located north of McKellips Road and west of Ellsworth Road (41.3± acres). Rezone from RS-35-PAD to RS-15-PAD-PAD and Site Plan Review. This request will allow the development of a single-residential subdivision. Pinnacle Ridge Holdings, LLC, owner; Paul Dugas, applicant. (PLN2012-00004)

P&Z Recommendation: Approval with conditions. (Vote: 5-0, Boardmembers Carter and Roberts absent.)

- \*6-e. **Z12-07 (District 5)** Parcel 1/3 at Mountain Bridge. Located south of McKellips Road and west of Ellsworth Road (34.9± acres). Rezone from RS-35-PAD to RS-9-PAD-PAD and Site Plan Review. This request will allow the development of a single-residential subdivision. Pinnacle Ridge Holdings, LLC, owner; Paul Dugas, applicant. (PLN2012-00005)

P&Z Recommendation: Approval with conditions. (Vote: 5-0, Boardmembers Carter and Roberts absent.)

- \*6-f. **Z12-08 (District 5)** Parcel 10/11 at Mountain Bridge. Located south of McKellips Road and west of Ellsworth Road (39.1± acres). Rezone from RS-35-PAD to RS-9-PAD-PAD and Site Plan Review. This request will allow the development of a single-residential subdivision. Pinnacle Ridge Holdings, LLC, owner; Paul Dugas, applicant. (PLN2012-00006)

P&Z Recommendation: Approval with conditions. (Vote: 5-0, Boardmembers Carter and Roberts absent.)

7. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that wants to provide comment should submit a blue card to the City Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (\*), a blue card must be given to the City Clerk before Council votes on the Consent Agenda.

- \*7-a. Amending Mesa City Code, Title 6, Chapter 15 – Alarm Systems, with the intent of decreasing the number of false alarm activations in Mesa – Ordinance No. 5079.

8. Take action on the following recommendation from the Audit, Finance and Enterprise Committee:

- \*8-a. Accept the City's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended June 30, 2011.

**Items not on the Consent Agenda**

- 5-b. Approving and authorizing the City Manager or his designated representative to negotiate and enter into a License Agreement with Edu-Prize Inc., DBA Step Up Schools, Inc., for use of the Washington Activity Center – Resolution No. 9992.

Parks, Recreation and Commercial Facilities Department (PRCF) Director Marc Heirshberg addressed the Council and reported that the operation of the Washington Activity Center is currently funded through Community Development Block Grant (CDBG) dollars. He explained that over the past few years, the Federal government has reduced Mesa's share of CDBG dollars, which resulted in the Council directing staff to seek alternative funding options. Mr. Heirshberg advised that staff reached out to various community partners to assist or assume the programming of the Center, but stated that based on various fee-for-service models and a downturn in the economy, a suitable partner could not be identified.

Mayor Smith clarified that there were groups that were interested in coming into the Washington Activity Center, but wanted to do so on a pay-per-use basis.

Mr. Heirshberg confirmed Mayor Smith's statement. He also noted that to the best of his knowledge, fees have never been charged for any of the programs offered at the Center.

Mr. Heirshberg further remarked that in early 2011, the West Mesa Community Development Corporation (West Mesa CDC) connected the PRCF Department with Edu-Prize, a charter school in Gilbert. He stated that Dr. Lynn Robershotte, the founder and superintendent of Edu-Prize, began her teaching career in the Washington Park/Escobedo neighborhood. He noted that Dr. Robershotte saw this as an opportunity to come back to the community and not only use the Washington Activity Center as a charter school, but also provide, at no cost to the community, similar programs to the ones that are currently being operated. (i.e., before/after school programs; summer programs; and provide space for Boy Scouts/Girl Scouts activities).

Mayor Smith clarified that residents in the community who did not attend the charter school would still have the opportunity to participate in after school and summer programs at the Center.

Mr. Heirshberg also pointed out that in exchange for the provision of operating the charter school, Edu-Prize would continue to operate the Washington Activity Center facility, at no cost to the residents or the City, and fund all utility costs and routine maintenance of the facility. He noted that the City would remain the owner of all real property and assume responsibility for the building, roof, air conditioning and water delivery to the property.

Dr. Lynn Robershotte, Superintendent of Edu-Prize, Inc., spoke regarding the success of Edu-Prize's schools in Gilbert and Queen Creek and noted that Edu-Prize was the first charter school to receive an A+ certification from the State of Arizona. She indicated that her passion has been to serve children of diversity and said that she was excited to bring "a proven educational model" to the community. Dr. Robershotte further acknowledged that members of the community have

voiced concerns regarding the proposal and added that if the Council approves this item, she would continue to engage in an open dialogue with those individuals.

Responding to a question from Mayor Smith, Dr. Robershotte confirmed that she has met with members of the community throughout this process and welcomed their feedback with respect to expanding some of Edu-Prize's existing programs or "intersessions," which could impact the entire community in a positive manner.

The following citizens spoke in opposition to this agenda item:

|                 |               |
|-----------------|---------------|
| Maria Mancinas  | Mesa resident |
| Casandra McCray | Mesa resident |
| Mauric White    | Mesa resident |
| Yolanda Leon    | Mesa resident |
| Jasmine Leon    | Mesa resident |
| Ray Harrison    | Mesa resident |
| Anthony Hopper  | Mesa resident |

Citizens who spoke in opposition to the proposal offered the following comments and opinions:

- The Washington Activity Center should be preserved and remain open in order to provide comprehensive services to a multi-generational community.
- Community members have met for the past two years in an effort to create a community-driven "Quality of Life Plan." The Plan outlines the Washington Park/Escobedo community's goals and objectives for comprehensive neighborhood revitalization.
- Even though the proposed charter school would provide opportunities for the children in the neighborhood, the children will have no place to play after school and on the weekends when the school is closed.
- Closure of the Washington Activity Center would "erase" more than 60 years of history in the Washington Park/Escobedo community.
- The Washington Activity Center was "a beacon" for the community's youth.
- Washington Park/Escobedo neighbors are currently receiving legal advice to explore partnerships and resources for the Washington Activity Center.
- The goal of the residents in the community is to ensure that the Washington Activity Center remains open to allow for a safe place for children and families to learn and play.
- The residents of the community are willing to collaborate with Edu-Prize in identifying an alternative location for the charter school in the neighborhood.
- The Washington Activity Center has offered a variety of programs that have enriched the lives of the neighborhood children.
- Edu-Prize has a waiting list for students at the charter school, which would not include children from the neighborhood.

In response to a question from Councilmember Richins, Dr. Robershotte clarified that there are waiting lists at the other Edu-Prize locations. She noted, however, that doing business as Step Up Schools, Inc. would specifically preclude the waiting lists from having anything to do with the Washington Activity Center. She commented that in speaking about this issue, she must be careful with respect to the Open Meeting Law and equal access for enrollment. She stated that by law, she cannot open 80 slots for the community, but indicated that open enrollment does not

occur until July 1<sup>st</sup>, and every one of the community members will have an application delivered to their home prior to that date in order to enroll their children.

Mayor Smith restated that Edu-Prize was making every effort to ensure that anyone in the community who wants to attend the charter school will have the opportunity to do so.

Ann Hines, a Mesa resident, spoke in support of this item. She noted, however, that there was a significant “level of strife” during various community meetings when this matter was discussed. She said that she would hope that such discussions come to a peaceful resolution.

Cynthia Dunham, Executive Director of the West Mesa CDC, commended the residents of the Washington Park/Escobedo neighborhood for their passion and concern with respect to the Washington Activity Center and the community as a whole. She stated that although change can be difficult, Edu-Prize’s use of the Washington Activity Center as a charter school and its commitment to provide a multitude of programs and activities at the facility will have a positive and hopefully unifying effect on the entire community.

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

|                   |               |
|-------------------|---------------|
| Doris Henderson   | Mesa resident |
| Linda Johnson     | Mesa resident |
| Lorene Fuller     | Mesa resident |
| Elquonar Anderson | Mesa resident |
| Glridene Quick    | Mesa resident |
| Wayne Manske      | Mesa resident |

It was moved by Councilmember Glover, seconded by Councilmember Richins, that Resolution No. 9992 be approved.

Councilmember Finter recalled various experiences growing up in Mesa, including forming life-long friendships with individuals who lived in the Washington Park/Escobedo community. He also commented that in June, 2008 when the new Councilmembers were sworn into office, one of their first items of business was learning about a budget proposal to close the Washington Activity Center. He stated that since that time, staff and the Council have struggled to find the necessary funding in order to operate the Center. Councilmember Finter stated that he would support the motion, but stressed that he deeply cared not only about the Washington Park/Escobedo neighborhood, but also the preservation of its rich history.

Councilmember Richins remarked that “funding realities” have changed the way in which the City conducts business, including shifting to a more regional model (i.e. regional pools/activity centers). He also noted that the Federal government reduced Mesa’s share of CDBG funding by nearly \$600,000 this year, thereby creating significant challenges for the community. Councilmember Richins, in addition, stated that he was impressed with what Edu-Prize would bring to the community and hoped that in the future, the residents would remember this day not only with mixed emotions, but also in celebration of what the proposal brought to the community.

Councilmember Richins further spoke regarding the petitions that were circulated with respect to the Edu-Prize proposal and the fact that certain information regarding the charter school was mischaracterized to citizens. He added that while he appreciates the community’s efforts to work



together on this issue and others, he would urge the residents to listen to “the new voices” and not intimidate anyone from participating in this process.

Councilmember Kavanaugh recounted “two transformational friendships” with Veora Johnson and Reverend Jerry Boyd, both of whom instilled in him a deep appreciation for the rich history of the Washington Park/Escobedo community and the importance of the Washington Activity Center. He stated that he was encouraged by Reverend Boyd to run for the City Council and during his firm term, was a strong supporter of the Washington Activity Center.

Councilmember Kavanaugh reiterated Councilmember Finter's comments regarding the Council's decision in 2008 to keep the Washington Activity Center open by utilizing CDBG dollars until another viable funding option could be determined. He also thanked the West Mesa CDC Board for working with the community, staff and the consultants with respect to the Edu-Prize proposal. Councilmember Kavanaugh further commended the Washington Park/Escobedo community for their dedication in developing a “Quality of Life Plan,” and said that it is an example to other neighborhoods in Mesa with regard to how a community can engage in a dialogue to establish goals and objectives for its future.

Councilmember Kavanaugh further remarked that the Edu-Prize proposal creates “a value added” to the Washington Activity Center because of the charter school's focus on education, its commitment to provide after-school programs and other activities, and the City's ongoing involvement as the owner of the facility. He assured everyone that the City would not abandon the Washington Activity Center or the neighborhood. He also thanked everyone who addressed the Council this evening and “spoke from the heart.” He noted that for all of the above-stated reasons, he would support the motion.

Mayor Smith acknowledged that since this Council took office in 2008, finding available monies to fund the operation of the Washington Activity Center has been “a daunting challenge.” He said that the City has no assurances regarding the amount of CDBG dollars that will be available from year to year, which makes funding the Washington Activity Center a tenuous situation. Mayor Smith also noted that he has attended numerous meetings with community representatives to hear proposals by potential partners with respect to operating the facility, none of which proved to be viable.

Mayor Smith further commented that Edu-Prize's proposal was “a Godsend,” because without it, the Washington Activity Center would close. He urged the community residents to work with Edu-Prize, take advantage of the educational opportunities, and offer feedback so that the charter school administration knows how to best serve the community. He added that he would support the motion.

Mayor Smith called for the vote.

Mayor Smith declared the motion carried unanimously by those present and Resolution No. 9992 adopted.

9. Conduct a public hearing and take action on the following resolution for the General Plan Amendment GPMInor11-01:

9-a. Conduct a public hearing on the General Plan Amendment GPMInor11-01.

Mayor Smith announced that this was the time and place to conduct a public hearing on the General Plan Amendment GPMInor11-01.

There being no citizens wishing to address the Council, the Mayor declared the public hearing closed.

- 9-b. **GPMInor11-01 (District 1)** 2100 West 8<sup>th</sup> Street. Located west of Dobson Road and south of the Loop 202 Red Mountain Freeway (170± acres). Minor General Plan Amendment to adjust the boundaries of the existing Mesa 2025 General Plan Land Use designations of Parks (P) and Mixed Use Residential (MUR) on the site. This request will facilitate the development of a stadium, team training facility, City recreation fields, and commercial development on the site. City of Mesa, owner. (PN2011-00276) – Resolution No. 9993.

P&Z Recommendation: Approval with conditions. (Vote: 5-0-1 Boardmember DiBella abstained, Chair Carter absent.)

It was moved by Vice Mayor Somers, seconded by Councilmember Glover, that Resolution No. 9993 be adopted.

Mayor Smith declared the motion carried unanimously by those present and Resolution No. 9993 adopted.

10. Items from citizens present.

There were no items from citizens present.

11. Adjournment.

Without objection, the meeting adjourned at 7:05 p.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, 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 5<sup>th</sup> day of March 2012. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK