



## COUNCIL MINUTES

May 16, 2011

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 16, 2011 at 5:46 p.m.

| COUNCIL PRESENT  | COUNCIL ABSENT | OFFICERS PRESENT                                     |
|--|----------------|--|
| Scott Smith<br>Alex Finter<br>Christopher Glover<br>Dina Higgins<br>Dennis Kavanaugh<br>Dave Richins<br>Scott Somers | None           | Christopher Brady<br>Debbie Spinner<br>Linda Crocker |

(Councilwoman Higgins participated in the meeting via telephonic equipment.)

Invocation by Pastor Tom Moffett of the City of Grace Church.

Pledge of Allegiance was led by Vice Mayor Somers.

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.

(There were no Awards, Recognitions and 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.

Mayor Smith stated that a citizen requested that item 6f be removed from the consent agenda.

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

Carried unanimously.

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

Minutes from the December 6, 2010 and May 2, 2011 Council meetings.

3. Take action on the following recommendation from the Judicial Advisory Board:

- \*3-a. Reappointment of Magistrate Valerye Boyer-Wells for a two-year term beginning July 1, 2011 and ending June 30, 2013.

Mayor Smith congratulated Magistrate Boyer-Wells on her reappointment to the Mesa Municipal Court.

4. Take action on the following liquor license applications:

\*4-a. Big Brothers/Big Sisters of Central Arizona

This is a one-day charitable event to be held on Saturday, June 4, 2011 from 5:30 p.m. to 9:30 p.m. at 1924 West 8<sup>th</sup> Street. **(District 1)**

\*4-b. Ultimate Imaginations, Inc.

This is a one-day charitable event to be held on Friday, June 3, 2011 from 6:00 p.m. to 10:00 p.m. at 1 to 270 West Main Street. This is an amended application to include one additional block from Robson to Morris on Main Street. The original application was approved by the Council on April 18, 2011. **(District 4)**

5. Take action on the following contracts:

- \*5-a. Change Order for the Term Contract for Rock and Concrete Materials for Transportation Department. **(Citywide)**

The Purchasing Division recommends transferring \$234,000 as requested by the Transportation Department and assigning Cemex as the primary contractor for Group 3 – Concrete Materials.

- \*5-b. Term Contract for Hot Asphalt for the Transportation Department. **(Citywide)**

The Purchasing Division recommends utilizing the City of Chandler contract through S.A.V.E. with Vulcan Materials Company at \$400,000, including applicable sales tax, and based on estimated requirements.

- \*5-c. Dollar-Limit Increase for the Term Contract for Bulk Methanol for the Water Resources Department. **(Citywide)**

Water Resources has requested this amount be increased from \$45,000 to \$94,000 to cover anticipated increases in the usage.

- \*5-d. Purchase of Two (2) Replacement Fire Pumper Trucks, One (1) Replacement 85-foot Ladder and One (1) New Pumper Truck for the Fire Department. **(Fully Funded by Fire Bonds) (Citywide)**

The Purchasing Division recommends authorizing purchase from Pierce Manufacturing, Inc., at \$2,891,953.53, including applicable use tax.

- \*5-e. Purchase of Smoke Alarms, Fire Extinguishers and 9-Volt Lithium Batteries for the Fire Department. **(Fully Funded by FEMA Grant) (Citywide)**

The Purchasing Division recommends awarding the contract to the lowest, responsive and responsible bidder, Lenhart's ACE Hardware (a Mesa business), at \$37,548.10, including applicable sales tax.

- \*5-f. Purchase of Replacement VHF Two-Way Communications Infrastructure for the Fire Department. **(Fully Funded by Public Safety Bonds) (Citywide)**

The Purchasing Division recommends awarding the contract to Durham Communications, Inc. (a Mesa business), at \$65,460.72, including applicable sales tax.

- \*5-g. Purchase of a Replacement Triplex Trim Mower for the Dobson Ranch Golf Course. **(Citywide)**

The Purchasing Division recommends authorizing purchase from the State Contract with John Deere & Company/Arizona Machinery (only authorized dealer in Arizona) at \$28,424.46, including applicable sales tax.

- \*5-h. Term Contract for Swimming Pool Chemicals for the Parks, Recreation and Commercial Facilities Department. **(Citywide)**

The Purchasing Division recommends using the cooperative contract through the City of Chandler with A & M Corson's AquaValue Pool Supply at \$31,000 annually, including applicable sales tax, and based on estimated requirements.

- \*5-i. ITD Building Plumbing Replacement, 59 East First Street. **(District 4)**

City Project 10-908-001. This project will replace the existing cast iron wastewater pipes due to their age and condition.

Recommend award to the low bidder, JMW Construction, in the amount of \$67,904.00 plus an additional \$6,790.40 (10% allowance for change orders) for a total award of \$74,694.40. This project will be funded from the Preliminary FY 11/12 Facilities Maintenance Operating Budget.

\*5-j. **Downtown Utility Improvements. (District 4)**

City Project 10-458-001. This project will install a 12-inch ductile iron pipe (DIP) with a 6-inch fire line stub to each property along the alleyways between Center and Robson. Installation of new gas line and water lines sharing the same trench. New wastewater lines in the alleyways will also be installed replacing lines that are in poor condition and undersized. Complete removal of the stamped concrete alleyway surface and replacement with new red brick stamped asphalt, also 17 new solid waste enclosures and light landscaping to help improve aesthetics within the alleys. There will also be minor improvements to the electric system consisting of an additional transformer and associated underground work.

Recommend award to the low bidder, The Fishel Company, in the amount of \$1,860,418.85 plus an additional \$186,041.86 (10% allowance for change orders) for a total award of \$2,046,460.74. This project is funded from approved FY 10/11 Water, Wastewater, Gas and Electric Bond Capital Programs.

\*5-k. **New Floor in Piper Theater at Mesa Arts Center. (District 4)**

City Project 09-929-01. This project will remove the existing floor and replace it with a new hardwood maple floor.

Recommend award to the low bidder, Liberty Builders & Development Inc., in the amount of \$52,200.00 plus an additional \$5,220.00 (10% allowance for change orders) for a total award of \$57,420.00. This project will be funded from the Preliminary FY 11/12 Arts & Cultural Restoration Fund.

6. Take action on the following resolutions:

- \*6-a. Approving and authorizing the City Manager to execute an Intergovernmental Agreement for the creation and participation in the Arizona Child Abduction Team – Resolution No. 9842.
- \*6-b. Vacating sixteen (16) foot wide alley right-of-way adjacent to and east of 1134 East 7<sup>th</sup> Street – Resolution No. 9843. **(District 1)**  
  
Alley is being vacated at the request of an adjacent property owner. The City will retain an easement for public utilities and for ingress and egress for the benefit of the utility companies.
- \*6-c. Approving and authorizing the City Manager to execute the First Amendment to the DMB Entitlements Development Agreement between the City of Mesa and DMB Mesa Proving Grounds LLC to extend performance dates and make other changes to the Development Agreement executed November 2008 – Resolution No. 9844.
- \*6-d. Approving and authorizing the City Manager to execute the First Amendment to the Gaylord Entitlements Development Agreement among the City of Mesa, DMB Mesa Proving Grounds, LLC and Gaylord Mesa, LLC to extend performance dates in the Development Agreement executed November 2008 – Resolution No. 9845.

- \*6-e. Approving and authorizing the City Manager to execute the First Amendment to the Gaylord Hospitality Facilities Development Agreement among the City of Mesa, DMB Mesa Proving Grounds, LLC and Gaylord Mesa, LLC to extend performance dates in the Development Agreement executed November 2008 – Resolution No. 9846.
  
- 6-f. Approving and authorizing the City Manager to execute a Development Agreement with First Solar, Inc. regarding the construction of a solar panel manufacturing facility at the southwest corner of Elliot and Signal Butte Roads – Resolution No. 9848.

Planning Director John Wesley stated that the Development Agreement, which relates to the First Solar property located at the southwest corner of Elliott and Signal Butte Roads, allows for certain improvements to the property, which the City has agreed to perform. He explained that the matter is related to items that have been presented to the Planning & Zoning Board (P&Z) for implementation of the Community Plan for the Mesa Proving Grounds, which would allow First Solar to develop a photovoltaic solar module manufacturing facility at that site.

Mayor Smith clarified that First Solar was seeking Council approval of the Development Agreement and noted that P&Z has already approved the Site Plan.

Nick Wood, an attorney with Snell & Wilmer, One Arizona Center, Phoenix, introduced several representatives of First Solar who were present in the audience.

Steve Krum, Director of Global Communications for First Solar, 350 West Washington, Tempe, thanked the City of Mesa for its willingness to partner with First Solar in an exciting business venture that will initially bring over 600 high-tech manufacturing jobs to the community. He stated that he looked forward to a long-term relationship between First Solar and the City. Mr. Krum added that First Solar prides itself on being an active member of the community and would embrace opportunities to work with the neighbors and the community as a whole.

James LeSueur, a Mesa resident who lives adjacent to the future site of the First Solar facility, expressed a series of concerns regarding the following issues: the neighbors would be negatively impacted by exposure to high levels of cadmium; an estimated 14,500 semi-trucks would travel in and out of the site on an annual basis; First Solar intends to construct four 40-foot high buildings on the site; and the main entrance to the neighborhood was a few hundred feet from the location in which the trucks would arrive and depart. He stated that he met with representatives of First Solar to discuss his concerns and added that he hoped the City would assist the neighborhood in this regard.

Peter Sterling, a Mesa resident and President/CEO of the Mesa Chamber of Commerce, stated that on behalf of all of the Chamber's members, he wished to express support for the First Solar development. He noted that First Solar would bring jobs to Mesa and said that the manufacturing facility was a compatible use in the area and more importantly for the Phoenix-Mesa Gateway Airport.

It was moved by Councilmember Glover, seconded by Vice Mayor Somers, that Resolution No. 9848 be approved.

Mayor Smith acknowledged the “trepidation” that the neighbors have regarding the proposed use of the area as compared to what existed in the past. He assured Mr. LeSueur that the City would work with First Solar and DMB to mitigate any impacts on the neighborhood, not only in the short-term, but also out into the future.

Mayor Smith voiced support for the motion and said that the development of a manufacturing facility is the type of activity that was anticipated and planned for at the Mesa Proving Grounds site. He further commented that First Solar’s willingness to move the plant back off the street, upgrade the landscaping and meet with the City to discuss traffic flows in the area demonstrates the company’s sensitivity to the neighbors and the community.

In response to a question from Vice Mayor Somers, Jeff Willardson, Human Resources Manager for First Solar, clarified that the company would begin hiring employees for the Mesa plant between now and early next year. He stated that all of the available positions would be advertised on the company’s website at [firstsolar.jobs](http://firstsolar.jobs).

Vice Mayor Somers thanked the representatives of First Solar for meeting with Mr. LeSueur and said he hoped that such efforts would continue in the future.

Mayor Smith called for the vote.

Carried unanimously.

- \*6-g. Approving and authorizing the City Manager to execute a termination agreement between Waveyard Development, LLC and the City of Mesa regarding the June 6, 2007 Development Agreement and Agreement to Purchase Real Property and Escrow Instructions – Resolution No. 9847.

7. Introduction of the following ordinances and setting June 6, 2011, as the date of the public hearing on these ordinances:

- \*7-b. **Z11-13 (District 4)** The 1600 block of South Stapley Drive (east side). Located south of the US 60 Superstition Freeway and east of Stapley Drive (72± acres). Council Use Permit. This request will allow for the development of a 65-foot tall Freeway Landmark Monument Sign at the Mesa Grand commercial retail center. (PLN2011-00049) Vestar Arizona, Owner; Paul Bleier, applicant.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Boardmember Arnett absent.)

- \*7-c. **Z11-14 (District 5)** The 4400 to 4800 block of East McKellips Road (north side); the 2000 to 2900 block of North Greenfield Road (east side); the 4400 to 5100 block of North Higley Road (west side). Located north of McKellips Road and east of Greenfield Road (578.45± acres). Rezone from M-1 to M-1-PAD. This request will establish Design Guidelines to guide future development at Falcon Field Airport. (PLN2010-00386) City of Mesa, owner; Corrine Nystrom, applicant.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Boardmember Arnett absent.)

8. Discuss, receive public comment, and take action on 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.

\*8-a. **A08-16 (District 5)** Annexing land located west of Crismon Road on the north side of Main Street, 9822 East Main Street (7.55± ac). Initiated by the property owner, William Woods – Ordinance No. 5037.

\*8-b. **Z11-03 (District 5)** 9822 and 9846 East Main Street. Located west of Crismon Road on the north side of Main Street (7.55+/- acres). Rezone from Maricopa County R-5 and C-3 to City of Mesa R-4 and C-3. This request will establish City zoning on recently annexed land. William Woods, owner; City of Mesa, applicant. (PLN2010-00388) – Ordinance No. 5038.

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

\*8-c. **Z11-04 (District 5)** 9822 and 9846 East Main Street. Located west of Crismon Road on the north side of Main Street (7.55+/- acres). Rezone from C-3 to R-4. This request will bring the existing land uses into conformance with the correct zoning districts. William Woods, owner; Dennis Zwagerman, applicant. (PLN2010-00388) – Ordinance No. 5039.

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

\*9. Adopt a Notice of Intention to adjust rates or rate components, fees and/or service charges for electric, irrigation water, natural gas, reclaimed water, solid waste, wastewater and water and establishing June 27, 2011 as the date for public hearing.

### **Items not on the Consent Agenda**

7-a. **Z11-08 (District 6)** 5503 South Power Road. Located south of Ray Road on the east side of Power Road (4.34 acres). Rezone from C-2 to M-1 and Site Plan Review. This request will allow the development of an RV/Boat Storage Facility. (PLN2010-00148) James McDowell, owner; Tony Cooper, applicant.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Boardmember Arnett absent.)

Mayor Smith stated that Councilwoman Higgins requested that this item be removed from the consent agenda.

Councilwoman Higgins stated that she removed this item in error because she did not realize it was merely for introduction. She explained that her reasons for removing the item were as follows: the staff report indicated that the proposed RV/boat storage facility is not compatible with the Mesa 2025 General Plan; the facility does not address the need to provide high quality jobs; and she is opposed to interim uses on a property that requires a rezone.

It was moved by Vice Mayor Somers, seconded by Councilmember Glover, that the above-referenced ordinance be introduced and that June 6, 2011 be set as the date of the public hearing on the ordinance.

Upon tabulation of votes, it showed:

AYES - Smith-Finter-Glover-Higgins-RIchins-Somers  
NAYS - Kavanaugh

Mayor Smith declared the motion carried by majority vote.

10. Conduct a public hearing and take action on the proposed annual assessments for the Mesa Town Center Improvement District No. 228:

10-a. Public hearing on the FY 2011/12 proposed annual assessments for the Mesa Town Center Improvement District No. 228. **(District 4)**

Mayor Smith announced that this was the time and place for a public hearing regarding the FY 2011/2012 proposed annual assessments for the Mesa Town Center Improvement District No. 228.

David Short, President of the Downtown Mesa Association (DMA), stated that the annual assessments pay for enhanced services (i.e., cleaning, maintenance, marketing, and parking management/enforcement for the City) in the downtown area. He explained that the goal of the DMA was operate with efficiency, provide service, and boost its marketing and promotional efforts for downtown Mesa.

In response to a question from Mayor Smith, Mr. Short clarified that the DMA Board of Directors proposed a 3% reduction in the Mesa Town Center annual assessments until such time as light rail construction in downtown Mesa is completed. He assured the Council that such a reduction would not impact services and added that the DMA was considering bringing certain contracts in-house in order to operate more efficiently.

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

10-b. Take action on a resolution approving the proposed annual assessments for the Mesa Town Center Improvement District No. 228. The recommendation is to decrease the assessments by 3% for FY 2011/12 – Resolution No. 9849. **(District 4)**

It was moved by Councilmember Kavanaugh, seconded by Councilmember Glover, that Resolution No. 9849 be adopted.

Carried unanimously.

11. Introduction of the following ordinance and setting June 6, 2011, as the date of the public hearing on the ordinance:

- 11-a. Adopting a new Title 6, Chapter 22 of the Mesa City Code relating to Convenience Stores implementing crime prevention designs as a means to prevent and reduce crime. **(Option 1)**

Mayor Smith stated that this item was merely the introduction of the proposed Convenience Store Ordinance and noted that on June 6, 2011, the Council would take final action on the matter. He commented that a number of citizens submitted speaker cards and would like to address the Council at this time.

Tim McCabe, 120 East Pierce Street, Phoenix, President of the Arizona Food Marketing Alliance (AFMA), offered an extensive historical overview of this item. He explained that in 2009, the AFMA and the Mesa Police Department (MPD) initiated a process in order to reduce crime at Mesa's convenience stores by incorporating Crime Prevention through Environmental Design (CPTED) principles. He stated that over the course of numerous Council Study Sessions and Public Safety Committee meetings, the MPD, the AFMA and convenience store owners/operators were directed by the Council to develop a solution that was workable to everyone. Mr. McCabe noted that this process also included a tiered approach, which focused more on the Mesa convenience stores that had high calls for service as opposed to those that had few, if any, crime issues.

Mr. McCabe further remarked that 11 days ago, the Council rejected Option 2, which was proposed by the MPD and the stakeholders, and elected to move forward with Option 1. He stated that not only was he and the MPD frustrated by the Council's direction, but so were the 148 convenience store owners in Mesa. Mr. McCabe also said that the costs to the store operators and owners to implement all of the security requirements contained in Option 1 would be excessive and would range in the area of \$24,000. He added that MPD's costs to process 148 applications for variances were unknown at this time. Mr. McCabe urged the Council to proceed with Option 2 and expressed the opinion that it is a fair and equitable solution for everyone who would be impacted by this ordinance.

Trish Hart, 318 West Roosevelt, Phoenix, representing the AFMA, thanked the Council, MPD, City staff and the stakeholders for their efforts and hard work over the past two years with regard to this matter. She reiterated that at the direction of the Council, AFMA, the MPD and stakeholders worked together to create a solution to address Mesa's Top 10 convenience stores that had a high volume of calls for service, while minimizing the impacts on the stores that have little or no crime.

Ms. Hart noted that the AFMA and its members strongly oppose Option 1. She said the ordinance fails to recognize that there are over 100 convenience stores in Mesa with very little crime and yet such stores would be required to expend significant resources to solve a problem that they don't have. She added that the variance review provision in both options was vague and did not contain clearly defined criteria. Ms. Hart added that the business community worked in good faith with the City and drafted an ordinance, Option 2, which not only had minimal impacts on small businesses that do not have crime-related issues at their stores, but also addressed security issues at those stores that had high call volumes. Ms. Hart commented on the fact that it would cost store owners a significant amount of money to comply with this option. She urged the Council to reject Option 1.

Responding to a question from Councilmember Richins, Ms. Hart clarified that the 100 or more convenience stores in Mesa that have few, if any, calls for service are generally situated in areas with lower crime rates and have also implemented various CPTED principles to ensure the safety of their employees and customers.

In response to a question from Councilmember Richins, Assistant Police Chief John Meza explained that the majority of the "Top 10" stores with the highest calls for service are corporate entities including Circle K, 7-Eleven, and am/pm.

Additional citizens spoke in opposition to this issue as follows:

|                |  |
|----------------|--|
| Greg Lee       | 815 South Dobson (7-Eleven franchisee) |
| Wallid Alkurdi | 1416 East Broadway Road                |
| Andy Youkhanna | 1231 South Mesa Drive, D2              |
| Matt Tolman    | Mesa resident                          |

Karen Frias-Long, a Mesa resident, representing the Mesa Prevention Alliance, whose focus is on the safety of youth, expressed support for Option 1. She stated that the ordinance would provide greater security protections, especially with regard to greater visibility and fewer signs covering windows and doors.

Mayor Smith commented that he received speaker cards from 55 additional citizens who did not wish to address the Council, but were opposed to Option 1. He noted that he would not read each of the names, but said they would be entered into the record. **(See Attachment 1)** Mayor Smith thanked everyone for their attendance and participation at tonight's meeting.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Glover, that the above-referenced ordinance be introduced and that June 6, 2011 be set as the date of the public hearing on the ordinance.

Vice Mayor Somers requested that Ms. Hart contact him to explain how she came up with a figure of \$25,000 to \$30,000 that convenience store owners would be required to expend in order to comply with the security requirements outlined in Option 1.

Councilwoman Higgins stated the opinion that any ordinance that is tied to calls for service was "bad public policy," and noted that was the reason she was in favor of Option 1.

Councilmember Richins acknowledged the Council's ability to bring "warring factions" to the negotiating table in an effort to resolve particular issues. He stated that with respect to this item, the MPD, the AFMA and the stakeholders worked on this matter for an extended period of time in order to reach a compromise, which is contained in Option 2. Councilmember Richins expressed support for Option 2 and noted that when an industry negotiates a solution to a problem with the MPD, it should be respected.

Councilmember Richins further remarked that he did not patronize businesses where he did not feel safe and noted that the City was challenging all Mesa convenience stores, whether major chains or independent small business owners, to "raise the bar." He indicated that it was time for Circle K to "step up your game" and said he was hopeful that the corporation would respond to such a challenge. Councilmember Richins voiced opposition to the introduction of Option 1 and added the opinion that Option 2, which was the industry-crafted solution, was "the better choice."

Councilmember Finter commented that during the economic downturn over the past few years, the Council was challenged to continue to provide public safety services to the community despite declining City revenues. He explained that during this process, it became very evident to him that there was a broad base of businesses (i.e., convenience stores, group homes, assisted living facilities) that depend heavily on public safety services probably more than they should. Councilmember Finter acknowledged that this agenda item has taken much longer than it should have to be resolved and expressed support for Option 2, which was “a compromise solution.” He added that he would oppose the motion.

Councilmember Kavanaugh offered an extensive historical overview of this issue. His comments included, but were not limited to, the following: that the Public Safety Committee, of which he is Chairman, and the Council have worked on this issue for more than two years; that Option 1, which was presented to the Council, has been revised numerous times; that last fall when the Public Safety Committee completed its work on this item, they were lauded by the small business owners for various compromises and changes that were recommended in concert with the MPD; that the Committee included a variance option, which would take into account those businesses that either through the design or age of their building were unable to meet the requirements contained in the ordinance; and that when the Committee completed its work on the ordinance, it garnered broad support, although there were certain issues (i.e., cameras, the length of time that video recordings would be retained) that the MPD and the industry agreed to address and resolve.

Councilmember Kavanaugh further remarked that in January of this year, this item was first set for introduction and stated that at that time, a majority of the Council was supportive of the compromise that had been crafted with the businesses, the MPD and with the Public Safety Committee. He explained that at that time, a question arose as to whether it was possible for staff and the industry to create some type of “tiered approach” and how such an option would be administered, after which the Council agreed to defer consideration of Option 1. Councilmember Kavanaugh advised that the Council was subsequently presented two options, both of which have had many, many compromises over the last two years. He added that it was important to note that since January, changes were made to Option 1 with the assistance of Mr. McCabe and Ms. Hart working with the MPD.

Councilmember Kavanaugh concluded his remarks by stating that the Public Safety Committee adamantly supports Option 1 because it provides the best opportunity for crime prevention, crime apprehension, and would create the safest environments for convenience store employees, customers and Mesa’s public safety officers. He stated that he would continue to support Option 1 and added that he hoped the majority of the Council would do the same at the June 6, 2011 Council meeting when final action on this matter will take place.

Vice Mayor Somers reminded his fellow Councilmembers that this item was merely the introduction of the ordinance and said there was time for questions to be answered prior to them taking final action on the matter. He noted that still supported Option 1 “barring anything else.” Vice Mayor Somers cautioned that the Council was not trying to create a law “to push crime under a rug” and said that convenience store owners could resolve the issue of high call volumes by simply not calling the Police when crimes occur, although that was not the solution to the problem. He added that beer runs can lead to more serious crimes, such as drinking and driving violations.

Mayor Smith stated that it was his understanding that in January this matter was sent back to the MPD and the industry for further review when the Council received feedback from the convenience store owners and operators that many issues had not been adequately considered or resolved. He also noted that when the Council adopts an ordinance, they should remember the power that government has and that such power should be “wielded only with great caution, care and respect for those who will be affected by it.”

Mayor Smith further remarked that this process began to address the manner in which certain Mesa convenience stores conduct business. He acknowledged that the City should take steps to resolve this issue, but stated that he “had a problem” with the City financially impacting those convenience store owners that have no crime or have taken the necessary steps to resolve crimes that have occurred in the past. Mayor Smith stated that he was “offended” that per Option 1, the government “would force someone to ask for a variance to get out of a hardship.” He also concurred with Councilmember Richins’ comments that the MPD and the industry worked hard to reach a compromise solution (Option 2) and added that it would behoove the Council to respect that process and the compromise that was reached between the parties regardless of what options the Council might have supported in the past. Mayor Smith stated that for those reasons, he would oppose the motion.

Mayor Smith called for the vote.

Upon tabulation, it showed:

AYES - Glover-Higgins-Kavanaugh-Somers

NAYS - Smith-Finter-Richins

Mayor Smith declared the motion carried by majority vote.

## 12. Items from citizens present.

Mayor Smith stated with respect to item 10a (Public hearing on FY 2011/12 proposed annual assessments for the Mesa Town Center Improvement District No. 228), he failed to recognize that Elizabeth Freeman submitted a letter objecting to those assessments and later withdrew her objection.

Elizabeth Freeman, a Town Center business owner, confirmed that she withdrew her objection after David Short, President of the Downtown Mesa Association (DMA) explained the reason why her assessment would not be changed. She also stated that the 5-year continuation of the Special Improvement District No. 228 is coming up for a vote in the fall and questioned whether, with the pedestrian overlay and entertainment overlay being proposed or approved for the downtown area, it would be an appropriate time to review the annual assessment criteria for the types of businesses that the Council would like to bring to the downtown (i.e., restaurants, retail) that pay a disproportionately higher rate than, for instance, an auto service or auto sales company.

13. Adjournment.

Without objection, the meeting adjourned at 7:10 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 16<sup>th</sup> day of May 2011. 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

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**Agenda Item 11a**

**Citizens Opposed to this Issue**

|                  |                  |                   |
|------------------|------------------|-------------------|
| Debra Cramer     | Ellen Swearingen | Anthony Fovazzo   |
| Steve Swonson    | Rachel Daniels   | Chris Stewart     |
| Richard Painter  | David Clark      | Greg Lee          |
| Gavin Zindel     | Brian Johnson    | Scott Stobal      |
| Lock Mousa       | Daniel Robles    | Lindsey Robles    |
| Stephen Sayers   | Nazrul Islais    | Amer Nouched      |
| Michelle Clanton | Brian Dewhirst   | David Hibbert     |
| Shane Fisher     | Jim Counsellor   | Diane Counsellor  |
| Michelle Kramer  | Becky Dutra      | Beidgit Fox       |
| Sylvia Muro      | Marie Silvers    | Miguel Estrada    |
| Kip Hoadley      | Jennifer Kempfer | Janine Montgomery |
| Gregory Plummer  | Kyle Tolman      | Michel Lagace     |
| Gracie Hidener   | Rob Thomas       | Bryan Wilcox      |
| Sawdhya Pillai   | Sandra Armijo    | Xerem Emre        |
| Andrew Kim       | Tammy Noline     | Bryan O'Neal      |
| James Clifton    | Steve Jelen      | Shayne Diersen    |
| Eddie Blanco     | Juan Ruiz        | Sandy Schroeder   |
| Ron Shively      | David Kadison    | Dwain Mendis      |
| Lisa Kidd        | Arshdeep Bhela   |                   |