



COUNCIL MINUTES

September 9, 2013

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on September 9, 2013 at 5:45 p.m.

COUNCIL PRESENT

Alex Finter
Chris Glover
Dennis Kavanaugh
Dave Richins
Scott Somers*

COUNCIL ABSENT

Scott Smith

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Dee Ann Mickelsen

(*Councilmember Somers participated in the meeting through the use of telephonic equipment.)

Vice Mayor Finter excused Mayor Smith from the entire meeting.

Invocation by Pastor Terry Darnall, Mesa Palms Seventh-Day Adventist Church.

Pledge of Allegiance was led by Councilmember Glover.

Mayor's Welcome.

Vice Mayor Finter 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.

Vice Mayor Finter stated that the City of Mesa will recognize this Wednesday, September 11, 2013, as a day of solemn commemoration of the events of September 11, 2001. He noted that it will also be a day for citizens across the country to come together and serve their communities.

Vice Mayor Finter explained that on September 11th, as well as the days leading up to it, there will be many opportunities for Mesa residents to serve their community and honor the victims and heroes of the tragic event. He said that this year, the City will participate in projects that focus on veterans and added that he would encourage residents to volunteer their time and talent.

Vice Mayor Finter also remarked that Mayor Smith has issued a proclamation declaring September 11, 2013 as a Day of Service and Remembrance.

Vice Mayor Finter, in addition, stated that he was pleased to announce that the Mesa Fire and Medical Department (MFMD) was recently awarded a grant from The Mahoney Company and its partner, Fireman's Fund Insurance Company. He explained that Fireman's Fund has a history of providing millions of dollars in grants to fire departments across the nation.

Assistant Fire Chief Mary Cameli and Fire and Life Safety Education Specialist Warren Sprecher came forward and addressed the Council. Chief Cameli expressed appreciation to The Mahoney Company and Fireman's Fund for awarding the MFMD \$22,000 in grant funds, which will be allocated to the Community Emergency Response Team (CERT). She invited the members of the neighborhood CERT teams who were present in the audience to stand and be recognized.

Mr. Sprecher reported that the CERT program enables members of the community to be prepared in the event of a disaster, such as heat emergencies and monsoons. He noted that the grant dollars would be used to fund equipment to assist CERT members in mitigating storm-related damage, as well as fund three basic CERT training classes to enable more citizens to participate in the program.

Eric Mattson, representing Fireman's Fund, stated that the company was celebrating its 150th anniversary and indicated that it was founded with the social mission to support widows and orphans of firefighters. He noted that since 2004, Fireman's Fund has awarded more than \$30 million in grants to 1,900 organizations for the purpose of funding life-saving equipment, firefighter training and community education programs.

Glendon Nelson, CEO of The Mahoney Group, thanked Fireman's Fund for its generosity. He stated that he was pleased to be able to award the grant to the MFMD and acknowledged their efforts and hard work throughout the community.

Vice Mayor Finter remarked that the mission of the United Food Bank is to end hunger and stated that the organization is using the month of September to raise awareness and educate the community regarding the importance of food banks. He explained that Mayor Smith has issued a proclamation declaring September 2013 as Hunger Action Month.

Erika Clemens, Marketing and Media Coordinator for the United Food Bank, thanked the City of Mesa and the City Council for their support and partnership over the years. She stated that in 2012, the United Food Bank provided more than five million meals to individuals in the community.

Ms. Clemens explained that Mayor Smith's proclamation of declaring September 2013 as Hunger Action Month coincides with National Awareness Month, which encourages the public to take action against hunger in their communities. She pointed out that everyone can make an impact on national hunger either by volunteering, starting a food drive, donating lunch money, sharing hunger statistics with friends online or wearing an orange ribbon.

Ms. Clemens further noted that during the month of September, the United Food Bank is working to mobilize the public online with its photo campaign "End Hunger in AZ One Plate at a Time." She explained that citizens are asked to write a statement against hunger on a paper plate, take a photo of themselves holding the plate, and post the photo on sites such as Instagram or Pinterest in an effort to increase awareness.

Bob Evans, President and CEO of the United Food Bank, stated that at the end of December, he will retire from the organization. He thanked the City of Mesa for its generosity and partnership during his tenure at the United Food Bank.

Vice Mayor Finter expressed appreciation to Mr. Evans for his years of service to the United Food Bank and wished him well in his future endeavors.

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 Councilmember Kavanaugh, seconded by Councilmember Glover, that the consent agenda items be approved.

Vice Mayor Finter declared the motion carried unanimously by those present.

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

Minutes from the June 20 and August 15 and 26, 2013 Council meetings.

3. Take action on the following liquor license applications:

*3-a. Los Musicos Sushi Bar and Grill

New Restaurant License for Los Musicos Sushi Bar and Grill, 1445 West Southern Avenue, Suite 1016, Los Musicos, LLC – Martin Ortega Ortega, agent. This location has a Restaurant License held by Rene C, LLC that will revert back to the State. **(District 3)**

*3-b. Fat Willy's Family Sports Grill

New Restaurant License for Fat Willy's Family Sports Grill, 2250 South Buttercup, Suite B, Fat Willy's Sunland, LLC – Christopher Robert Gelenites, agent. This location has a Restaurant License held by Hens and Chicks Cafe, LLC that will revert back to the State. **(District 6)**

*3-c. Over Easy

New Restaurant License for Over Easy, 6451 East Southern Avenue, Red Mountain Cafe, LLC – Lauren Kay Merrett, agent. This is an existing building with no previous liquor license at this location. **(District 6)**

*3-d. Pita Jungle

New Restaurant License for Pita Jungle, 1652 South Val Vista Drive, Suite 128, The King and Park, LLC – Ian James Stupar, agent. The previous Restaurant License held at this location by Bar Tepo, LLC was terminated by the State on March 31, 2009. **(District 2)**

*3-e. Republica Empanada

New Restaurant License for Republica Empanada, 204 East 1st Avenue, Republica Empanada, LLC – Jinette Marie Meraz, agent. This is an existing building with no previous liquor license at this location. **(District 4)**

4. Take action on the following contracts:

*4-a. Purchase of One New Commercial Sweeper for the Parks, Recreation and Commercial Facilities Department (Single Bid). **(Citywide)**

This contract will provide one new commercial riding sweeper to maintain the City of Mesa Cemetery. The unit will also be loaned to the golf course and baseball facilities during over-seeding projects, which occur each fall, eliminating the need to rent an additional sweeper during this time.

Parks, Recreation and Commercial Facilities and Purchasing recommend award to Textron, Inc., dba Jacobsen West, at \$29,778.17.

*4-b. Two-Year Renewal of the Term Contract for Audio-Visual Services for the Parks, Recreation and Commercial Facilities Department. **(Citywide)**

This contract provides audio-visual services including consultation services, rental equipment and Internet services for the City's clients at the Mesa Convention Center's four facilities.

Parks, Recreation and Commercial Facilities and Purchasing recommend authorizing a two-year renewal with JLG Enterprises, Inc., dba Premier Audio Visual (a Mesa business), at \$130,000 annually, based on estimated requirements.

*4-c. Three-Year Term Contract for Landscape Maintenance Services for Aquatics Facilities for the Parks, Recreation and Commercial Facilities Department (Single Bid). **(Citywide)**

This contract furnishes all supervision, labor and equipment to provide landscape maintenance at aquatics facilities (pools) located at the junior high schools, including Brimhall, Carson, Fremont, Kino, Shepherd, Stapley, as well as Skyline High School.

Parks, Recreation and Commercial Facilities and Purchasing recommend awarding the contract to the qualified, single bidder, Artistic Land Management, Inc., at \$35,000 annually, based on estimated requirements.

*4-d. One-Year Renewal of the Term Contract for Janitorial and Sanitation Supplies for the Materials and Supply Warehouse (for City Departments). **(Citywide)**

This contract was competitively bid and awarded by the City of Tucson in 2010. On February 27, 2012, the Council approved the initial contract with three one-year renewal options and a one-year renewal on August 20, 2012. This is the second one-year renewal contract with one one-year renewal option remaining.

Materials and Supply and Purchasing recommend authorizing a one-year renewal using the City of Tucson cooperative contract with Waxie Sanitary Supply (a Mesa business), at \$165,000 annually, based on estimated requirements.

- *4-e. Three-Year Term Contract for Padlocks and Keys for the Materials and Supply Warehouse (for City Departments). **(Citywide)**

This supply contract will provide padlocks and key sets for various locations and operations throughout the City.

Materials and Supply and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, Independent Hardware Inc., at \$28,000 annually, based on estimated requirements.

- *4-f. Purchase of Randox Evidence Analyzer for the Police Department (Sole Source). **(Citywide)**

This contract will provide one Randox Evidence Investigator Biochip Analyzer for toxicology during screening and testing for Police Forensic Services. This replaces an existing analyzer that is out of date in its efficiency and capabilities.

Police and Purchasing recommend awarding the contract to the sole source vendor, Randox Laboratories US Limited/Randox Toxicology Limited, at \$79,880. This purchase is fully funded by an Intergovernmental Agreement with the Town of Gilbert for Lab Regionalization Services.

- *4-g. Two-Year Renewal of the Term Contract for DNA Crime Laboratory Supplies for the Police Department (Sole Source). **(Citywide)**

This contract provides supplies for Police Forensic Services to process evidence and conduct forensic DNA testing for criminal investigations.

Police and Purchasing recommend authorizing a two-year renewal with the sole source vendor, Life Technologies, at \$217,000 annually, based on estimated requirements.

- *4-h. Purchase of 28 New Ruggedized Laptops for Police Patrol Vehicles as requested by the Information Technology Department. **(Citywide)**

On April 1, 2013, the Council approved a contract to purchase 57 Police Patrol Chevy Tahoes for the Police Department, 29 replacements and 28 additions. This purchase of ruggedized notebooks will be installed in the 28 added vehicles. The ruggedized model is necessary for public safety personnel as the devices are placed in vehicles and must withstand extreme temperatures and rough conditions.

Information Technology, Police and Purchasing recommend authorizing the Purchase using the Mohave Educational cooperative contract with CLH, International, Inc., at \$105,527.52. This purchase is funded by Asset Forfeiture RICO funds.

- *4-i. Three-year Term Contract for Pipe Repair Clamps for the Materials and Supply Warehouse (for the Water Resources Department). **(Citywide)**

Materials and Supply, Water Resources and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidders, HD Supply Waterworks, LTD., and Arizona Water Works Supply. The contract award is \$70,000 annually, based on estimated requirements.

- *4-j. Purchase of New Computers, Related Equipment and Software Licenses for the Fiesta District Police Substation. **(Citywide)**

This award will provide 25 personal computers, monitors and surge protectors, as well as Windows operating system, Microsoft Office and anti-virus software.

Information Technology, Police and Purchasing recommend authorizing the purchase using the State of Arizona cooperative contract with Dell Marketing, LP, at \$23,516.54, and SHI International, Corp., at \$12,936.00. The combined total award is \$36,452.54.

- *4-k. Dollar-Limit Increase to the Term Contract for Custodial Services for Secured City Buildings as requested by the Facilities Maintenance Department. **(Citywide)**

This dollar-limit increase request is for custodial services at the new Fiesta District Police Substation, which is nearing completion. Facilities Maintenance has prepared Change Order #17, adding Police Fiesta Substation for the remainder of the year. The annual contract amount is \$45,991.60, a six-month increase of \$23,000.

Facilities Maintenance and Purchasing recommend authorizing a dollar-limit increase of \$23,000, from \$1,254,549.06 to \$1,277,549.06 with GCA Services Group (a Mesa business), based on estimated requirements.

- *4-l. Dollar-Limit Increase to the Term Contract for Custodial Services for City Buildings as requested by the Facilities Maintenance Department. **(Citywide)**

The dollar-limit increase is required for custodial services at the Mesa Center for Higher Education. Facilities Maintenance has prepared Change Order #9, adding the Mesa Center for Higher Education for cleaning services for the remainder of the year. The annual contract amount is \$68,952.98, a six-month increase of \$34,500.

Facilities Maintenance and Purchasing recommend authorizing a dollar-limit increase of \$34,500, from \$643,767.20 to \$678,267.20 with GCA Services Group (a Mesa business), based on estimated requirements.

- *4-m. Purchase of Six Replacement Light-Duty Pickup Trucks for the Energy Resources Department. **(Citywide)**

The vehicles that are being replaced have met established criteria and will be retired and sold at auction. This is an additional purchase against a contract originally awarded on April 1, 2013.

Fleet Services, Energy Resources and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, Berge Ford (a Mesa business), at \$140,847.24. This purchase is funded by the Utility Replacement Extension and Renewal Fund.

- *4-n. Purchase of Two Replacement Light-Duty Cab and Chassis Service Body Vehicles for the Energy Resources Department. **(Citywide)**

The vehicles that are being replaced have met established criteria and will be retired and sold at auction. This is an additional purchase against a contract originally awarded on April 1, 2013.

Fleet Services, Energy Resources and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, PFVT Motors, Inc., at \$77,993.02. This purchase is funded by the Utility Replacement Extension and Renewal Fund.

- *4-o. Purchase of Two Replacement Light-Duty Cab and Chassis Service Body Vehicles for the Energy Resources Department. **(Citywide)**

The vehicles that are being replaced have met established criteria and will be retired and sold at auction. This is an additional purchase against a contract originally awarded on April 1, 2013.

Fleet Services, Energy Resources and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, Berge Ford (a Mesa business), at \$70,594.42. This purchase is funded by the Utility Replacement Extension and Renewal Fund.

- *4-p. Three-Year Term Contract for Waterborne Traffic Paint for the Transportation Department. **(Citywide)**

This contract will provide traffic paint materials for lane line delineation or traffic delineation lane markings.

Transportation and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, Swarco Ind./Colorado Paint Corp., at \$145,000 annually, based on estimated requirements.

- *4-q. Purchase of Two Replacement Pad Mount Transformers for the Energy Resources Department. **(Citywide)**

This is a one-time purchase of two 2000kVA, 3-phase electric utility distribution transformers. One transformer is required for new electric service to City Well 14. The second is purchased as necessary back-up equipment to be placed in the Materials and Supply Warehouse as future back-up or replacement.

Two equivalent transformers were purchased through a competitive bid process in 2011. One transformer was immediately installed for service at City Well 11 and the second held in Warehouse inventory as necessary back-up equipment. When placed in service and energized, both failed and costs were fully refunded under warranty provisions of the purchase contract. This purchase is the result of a new bid from a different manufacturer and replaces the units previously purchased.

Energy Resources and Purchasing recommend awarding the contract to the lowest, responsive and responsible bidder, Wesco Distribution, at \$65,778.24. This purchase is fully funded by Electric Utility Bonds.

- *4-r. Two-Year Renewal of the Term Contract for Concrete Installation and Repair Services for the Transportation, Energy Resources and Water Resources Departments. **(Citywide)**

On August 20, 2012, management approved the initial one-year contract with one two-year renewal option. This is the two-year renewal contract for a three-year total term.

Transportation, Energy Resources, Water Resources and Purchasing recommend authorizing a two-year renewal with CPC Construction, LLC, at \$1,244,000 annually, based on estimated requirements. This purchase is funded through the Highway User Revenue Fund, at \$995,200 and through the Enterprise Fund, at \$248,800.

- *4-s. Val Vista Transmission Main – Phase 1. **(District 1)**

This contract is for the pre-construction services contract amendment received from Garney Construction for constructability reviews, preparation of long-lead procurement items list, a preliminary site assessment, a project phasing development program, development of Guaranteed Maximum Price (GMP) packages and a detailed schedule outlining construction scheduling for the Val Vista Transmission Main – Phase 1 project.

The City has initiated the Val Vista Water Transmission Main to City Reservoirs project to build a new water transmission main parallel to the existing Val Vista Water Transmission Main that delivers water to three City-owned reservoirs located in the City Zone. The new Val Vista Water Transmission Main will serve as a dedicated water transmission main for the City to fulfill the requirements of an Intergovernmental Agreement with the City of Phoenix. This pre-construction services contract amendment will allow the Construction Manager at Risk to be part of the project team during the development of the plans and specifications.

Recommend award of the pre-construction services contract to Garney Construction, in the amount of \$171,442.40. The project is funded by the voter-approved 2010 Water Bond Fund.

- *4-t. One-Year Renewal of the Term Contract for Gas Service Regulators for the Materials and Supply Warehouse (for the Energy Resources Department). **(Citywide)**

Materials and Supply, Energy Resources and Purchasing recommend authorizing a one-year renewal with Itron, Inc., at \$45,000, based on estimated requirements.

- *4-u. City Re-Use of 26 North Macdonald Street. **(District 4)**

This contract is for the Guaranteed Maximum Price (GMP No. 1) received for the interior demolition package for the building at 26 North Macdonald Street. This project will be completed using the Construction Manager at Risk (CM@Risk) contracting method.

In 2002, and at no cost to the City, Mesa acquired the former Federal Building at 26 North Macdonald Street through the “Federal Lands to Park Program.” This is a Department of

Interior program administered through the National Parks Service that enables excess federal property to be transferred to local jurisdictions, provided that the buildings or properties are used for public recreation or related purposes. The Federal Government accepted the City's 2002 application that stated that the City would use the building for certain purposes in the short term, converting the building to other uses in the long term. The long-term use of the building was realized in November of 2012, when Mesa voters passed bond authorization to remodel this former federal building for public museum exhibit space.

Recommend total award amount to Concord General Contractor for this Guaranteed Maximum Price No. 1 package, of \$204,278.00, based on the CM@Risk proposal of \$185,708.00, plus an additional \$18,570.00 (10% contingency allowance for change orders). This project is funded by the 2012 Parks Bond Authorization.

5. Take action on the following resolutions:

- *5-a. Approving and authorizing the City Manager to accept funding made available through a Grant Agreement with the Arizona Criminal Justice Commission. Funding in the amount of \$107,000 will be used for equipment and training for the Forensic Services Section of the Police Department. **(Citywide)** – Resolution No. 10322.
- *5-b. Approving and authorizing the City Manager to execute Amendment No. 1 to the Agreement with Teleport Communications America, LLC (FKA TCG, Phoenix). This License allows for the continued use of the public right-of-way by TCA for fiber optic communications infrastructure. The City will not experience any financial outlay to complete the License transfer, beyond invested staff time. TCG Phoenix pays transaction privilege tax on telecommunications income. **(Citywide)** – Resolution No. 10323.
- *5-c. Approving and authorizing the City Manager to execute a Telecommunication License Renewal for Level 3 Communications, LLC, for a five-year term with an optional additional term of five years. Under the agreement, Level 3 Communications will be assessed an annual fee of \$1.89 per foot, with a CPI escalator clause applied each year and an annual billing fee of \$305.00. **(Citywide)** – Resolution No. 10324.
- *5-d. Approving and authorizing the City Manager to execute the Annual Operations Funding Agreement with Valley Metro Rail, Inc., for the operations and maintenance costs for light rail service in FY 13/14. The City's share of the costs is \$1,717,913. **(District 3)** – Resolution No. 10325.
- *5-e. Extinguishing an undefined and unrestricted ingress and egress easement at 501 North Gilbert Road. **(District 5)** – Resolution No. 10326.

A new public utilities and facilities easement will be granted by the property owners that will define a new location for ingress and egress and the blanket encumbrance (i.e., the undefined and unrestricted easement) will be removed from the title of the property.

- *5-f. Vacating an eight (8) foot-wide alley, extinguishing a four (4) foot-wide easement for ingress and egress, and extinguishing a three (3) foot-wide easement for alley purposes, all of which are located in Sutherland Subdivision and at 101 North 38th Street. **(District 2)** – Resolution No. 10327.

The property owners are requesting that the City extinguish the easements and vacate the right-of-way.

6. Introduction of the following ordinances and setting September 23, 2013, as the date of the public hearing on these ordinances:

- *6-a. Amending various sections of the Mesa City Code regarding the following traffic modifications as recommended by the Transportation Advisory Board:

Speed Limits (45 mph): 10-4-3 and Speed Limits (35 mph): 10-4-5

Increase the speed limit from 35 mph to 45 mph on Mountain Road from Mesquite Street to Ray Road. (Mountain Road south of Elliot Road) **(District 6)**

- *6-b. **A13-07 (District 6)** Annexation of Maricopa County Right-of-Way for a portion of East Southern Avenue from approximately 300 feet east of South Cheshire west to Crismon Road.

- *6-c. **Z13-033HL (District 4)** 59 East 1st Street. Located north of Main Street and west of Mesa Drive (0.77 acres). Rezone from DC-DE to DC-DE-HL with the option to opt-in to the Form-Based Code with T5-MSF. This request will add an Historic Landmark Overlay for this address.

Staff Recommendation: Approval with Conditions

P&Z Recommendation: Approval with Conditions (Vote: 5-2)

- *6-d. **Z13-036 (District 6)** 2900 to 3000 blocks of South Sossaman Road (west side). Located south of Guadalupe Road west of Sossaman Road (46± acres). Modification of the PAD for Desert Place at Morrison Ranch Lots 87 to 133 and 234 to 278 in the RS-7-PAD-PAD zoning district. This request will allow residential lot coverage to increase from 45% to 50%.

Staff Recommendation: Approval with Conditions

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

- *6-e. **Z13-037 (District 5)** The 8800 block of East Upper Canyon Drive (north side). Located north of McKellips Road west of Ellsworth Road (17.58 acres). Rezone from RS-35-PAD to RS-15-PAD-PAD and Site Plan Review. This request will allow residential development on Parcel 4B at Mountain Bridge.

Staff Recommendation: Approval with Conditions

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

- *6-f. **Z13-038 (District 5)** The 8900 block of East Desert Foothills Drive (south side). Located south of McKellips Road west of Ellsworth Road (28.1± acres). Rezone from RS-9-PAD and RS-35-PAD to RS-15-PAD-PAD and Site Plan Review. This request will allow residential development on Parcels 19 and 28 at Mountain Bridge.

Staff Recommendation: Approval with Conditions

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

- *6-g. **Z13-039 (District 5)** The 8700 block of East Upper Canyon Drive (south side). Located north of McKellips Road east of Hawes Road (28.3± acres). Rezone from RS-35-PAD to RS-15-PAD-PAD and Site Plan Review. This request will allow residential development on Parcel 9 at Mountain Bridge.

Staff Recommendation: Approval with Conditions

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

- *6-h. **Z13-041 (District 2)** 4142 East Valley Auto Drive. Located west of Greenfield Road north of Baseline Road (5.85± acres). Rezoning from LI-PAD to LI and Site Plan Review. This request will allow the development of a self-storage facility in the LI zoning district.

Staff Recommendation: Approval with Conditions

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

- *6-i. **Z13-042 (District 6)** 5200 to 5500 blocks of South Signal Butte Road (east side) and 5200 to 5500 blocks of South Mountain Road (west side). Located between Signal Butte Road and Mountain Road, just south of Ray Road (126.9± acres). Modification of the Bella Via PAD for Parcels 12 to 15 (formerly known as Mountain Horizons PAD) and rezone from RS-9-PAD and RM-2-PAD to RS-6 PAD. This request will allow residential development.

Staff Recommendation: Approval with Conditions

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

- *6-j. Modifying Multi-Unit Dwelling Wastewater schedules with increased rates, components, fees or charges.

7. Discuss, receive public comment, and take action on the following ordinance introduced at a prior Council meeting. Any citizen who 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. **A12-06 (District 1)** Annexing the 2600 block of East Lehi Road, located between McDowell and Thomas Roads. 10.94± ac. Initiated by the property owners, City of Mesa. Ordinance No. 5176

8. Take action on the following subdivision plat:

- *8-a. "1722 Banning Business Condominiums" **(District 5)** The 1700 block of North Banning (west side). Located south and west of East McKellips Road and North Higley Road.

Five LI condominium units. DCSJ, LLC., owner; William H. Standage, Standage and Associates, LTD., engineer.

Items not on the Consent Agenda

9. Take action on the following liquor license application:

9a. **ABC Food Store**

New Beer and Wine Store License for ABC Food Store, 816 East University Drive, Baljeet Joshi, individual. This is an existing building with no previous liquor license at this location. **(District 4)**

Vice Mayor Finter requested that staff provide the Council a brief overview of this item.

Business License and Revenue Collection Administrator Tim Meyer addressed the Council and reported that ABC Food Store, located at 816 East University, has applied for a Series 10 Beer and Wine Store License. He explained that the City received six petitions from residents who expressed opposition to the license. He also stated that the calls for service at the ABC Food Store, as well as the business next door (University Farmers Market) have been very reasonable.

The following citizens spoke in opposition to the liquor license application:

Steve Allen, a Mesa resident
Nancy Darien, a Mesa resident
Robert Roman Darien, a Mesa resident
Ryne O'Reilly, a Mesa resident

Comments made in opposition to the liquor license application include:

- An existing store next door to the applicant's store already sells beer and wine.
- A proliferation of stores that sell liquor in the immediate area of the applicant's store is unnecessary and "can bring in an element that is not always best for the neighborhood."
- The store is located in close proximity to Edison Elementary School and a number of churches.

Patrick C. Uhegury, a Mesa resident and the owner of University Farmers Market, addressed the Council. He expressed concern that granting ABC Food Store a liquor license could jeopardize his business and possibly result in both stores closing. He also stated that the stores are located in a low-income neighborhood and questioned whether the residents could sustain two liquor stores.

Speaking in support of the liquor license application were the following individuals:

Neeraj Joshi, a Mesa resident
Hardinder Singh, a Chandler resident

Comments made in support of the liquor license application include:

- Many successful businesses are located next door to each other.
- ABC Food Store sells a large variety of merchandise and offers check cashing services. Its hours of operation are from 6:00 a.m. to midnight, which is convenient for its customers.
- The adjacent store that also sells wine and beer is actually located closer to Edison Elementary School than ABC Food Store.
- The owners of ABC Food Store are good citizens, obey the law and have signed a 15-year lease on the property.
- Competition in the market is advantageous for the community and the economy.

In response to a question from Vice Mayor Finter, City Attorney Debbie Spinner clarified that under Arizona law, the Council makes a recommendation to the State Liquor Board with respect to the application, but does not decide to grant or deny a liquor license. She explained that tonight the Council will vote on this matter and their recommendation will be forwarded on to the State Liquor Board along with the citizen petitions and the minutes from this meeting.

Ms. Spinner further remarked that per State Statute, if the Council recommends denial of the application, they must specifically identify one or more of the 12 criteria set out in the Administrative Code that forms the basis for their recommendation of denial.

Ms. Spinner, in addition, advised that if the Council makes a recommendation for approval or does not make either a recommendation for approval or denial, staff will still submit the above-referenced information to the State Liquor Board. She noted that at that time, the State Liquor Board can cancel the hearing and simply grant the license if it chooses to do so. She also explained that if the Council recommends denial, the State Liquor Board will conduct a hearing regarding the application. She added that even with a non-recommendation from the Council, the citizens who submitted petitions in opposition to the application can still file a complaint with the State Liquor Board and request a hearing.

Ms. Spinner also reported that per the Mesa City Charter, four votes of the Council are required in order for a motion to pass. She stated that if the Council fails to reach four votes for approval or denial of the application, the matter would be forwarded on to the State Liquor Board without a recommendation.

Councilmember Glover commented that the ABC Food Store is located in his Council district and expressed support for approval of the liquor license application. He stated the opinion that it was important to have a competitive nature in the market and noted that a business will either succeed or fail on its own merits. He also remarked that the Council should not selectively choose when they want to apply certain rules, "especially if there are other things already in place." He added that ultimately, it is the State Liquor Board that will grant the license.

Councilmember Kavanaugh concurred with Councilmember Glover's comments and voiced support for recommending approval of the liquor license application. His remarks included, but were not limited to, the following: the City has strict ordinances in place that regulate the operation of convenience stores to ensure that they are safe for their employees, customers and the neighborhood; that both ABC Food Store and University Farmers Market are good businesses; that he did not want to be in the position of "picking winners and losers;" that he was

hopeful that both businesses would thrive with the competition; and that if either store was not a good neighbor, the City would be apprised of the situation and notify the appropriate authorities.

Councilmember Richins agreed with his fellow Councilmembers' comments with respect to the issue of competition in the market. He noted, however, that Criteria No. 11 of the Administrative Code states the following: "Comparison of the hours of operation of the proposed premises and the existing businesses in close proximity."

Councilmember Richins stated that it was his understanding that the ABC Food Store intended to operate on a 24/7 basis and pointed out that a private residence was located right next door to the business. He voiced opposition to the application based on Criteria No. 11.

Councilmember Somers concurred with Councilmember Kavanaugh's comments and said he would support the liquor license application.

Vice Mayor Finter expressed appreciation to the owners of both the ABC Food Store and the University Farmers Market for their input and comments. He stated that he would support the liquor license application and reiterated that the State Liquor Board would make the final determination with respect to this matter.

It was moved by Councilmember Glover, seconded by Councilmember Kavanaugh, that the ABC Food Store liquor license application be forwarded to the State Liquor Board with a recommendation for approval.

Upon tabulation of votes, it showed:

AYES - Finter-Glover-Kavanaugh-Somers
NAYS - Richins
ABSENT - Smith

Vice Mayor Finter declared the motion carried by majority vote.

Vice Mayor Finter thanked the speakers who took the time to attend tonight's meeting and express their opinions.

10. Items from citizens present.

There were no items from citizens present.

11. Adjournment.

Without objection, the meeting adjourned at 6:34 p.m.

ALEX FINTER, VICE 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 9th day of September, 2013. 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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