



COUNCIL MINUTES

May 19, 2008

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 19, 2008 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Kyle Jones
Tom Rawles
Scott Somers
Darrell Truitt
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

Invocation by Father Charlie Goraieb, Queen of Peace Catholic Church.

Pledge of Allegiance was led by Councilmember Truitt.

Mayor's Welcome.

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

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.

Vice Mayor Walters stated that item 14 was read into the record, but should have been deleted from the consent agenda.

City Attorney Debbie Spinner advised that item 12m, which should have been read into the record, is continued to the June 23rd Regular Council meeting.

City Clerk Linda Crocker indicated that she received requests from citizens to remove items 8a, 11e, and 12d from the consent agenda. She said that an individual also requested that item 12f

be removed from the consent agenda, but did not wish to speak regarding the item and was simply showing his support for the matter.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that the consent agenda items be approved, with the exception of items 8a, 11e, 12d and 12f, the correction read into the record by Ms. Spinner concerning 12m, and the deletion of 14.

Ms. Crocker clarified that the individual who requested that 11e be removed from the consent agenda actually meant to remove 11l.

Vice Mayor Walters amended her motion that 11e remain on the consent agenda and that 11l be removed from the consent agenda.

Ms. Spinner further commented that regarding item 15, the information displayed on Mesa Channel 11 is incorrect and the item should read as follows: "Assign delinquent accounts to collection services for the three-month period ending March 31, 2008 totaling \$670,725."

Ms. Crocker advised that she just received a request from a citizen to remove item 12e.

Vice Mayor Walters further amended her motion that item 12e also be removed from the consent agenda.

Councilmember Somers, as the seconder, concurred with the amended motion.

Carried unanimously.

Mayor Hawker congratulated Presiding Magistrate Matt Tafoya, Magistrate Robin Allen and Magistrate Elizabeth Arriola for their reappointments to the Mesa Municipal Court.

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

Minutes from the December 20, 2007; April 7 and 10, May 5, 8 and 15, 2008 Council meetings.

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

- *3a. Reappointment of Presiding Magistrate Matt Tafoya for a four-year term beginning July 1, 2008 and ending June 30, 2012.
- *3b. Reappointment of Magistrate Robin Allen for a four-year term beginning July 1, 2008 and ending June 30, 2012.
- *3c. Reappointment of Magistrate Elizabeth Arriola for a two-year term beginning July 1, 2008 and ending June 30, 2010.

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

- 4a. Public hearing on the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

Mayor Hawker declared potential conflicts of interest on items 4a and 4b and said he would refrain from discussion/consideration of these items. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

Mayor Hawker stated that he is aware of the fact that many Las Sendas residents are present in the audience who wish to address the Council regarding items 17a, b, c, and d. He stated that in an effort to expedite those matters, he requested that the individuals move to the Lower Council Chambers so they can designate several spokespersons to address the concerns of the neighbors.

Councilmember Whalen declared potential conflicts of interest on items 4a and 4b and said he would refrain from discussion/consideration of these items.

Vice Mayor Walters announced that this is the time and place for a public hearing on the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

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

4b. Take action on the following resolution:

Approving the annual assessments for the Mesa Town Center Improvement District No. 228. The proposed annual assessments include a three percent (3%) rate increase approved by Council on March 3, 2008 – Resolution No. 9258.

It was moved by Councilmember Jones, seconded by Councilmember Somers, that Resolution No. 9258 be adopted.

Upon tabulation of votes, it showed:

AYES - Jones-Rawles-Somers-Truitt-Walters
ABSTAIN - Hawker-Whalen

Vice Mayor Walters declared the motion carried unanimously by those voting and Resolution No. 9258 adopted.

With action on this agenda item being completed, Vice Mayor Walters yielded the gavel back to Mayor Hawker.

5. Discuss, take public comment and take action on the following Minor General Plan Amendment and zoning case:

5a. Public Hearing on Minor General Plan Amendment **GPMInor08-07 (District 5)**

Mayor Hawker announced that this is the time and place set for a public hearing on Minor General Plan Amendment **GPMInor08-07**.

Tom C. Schuelke, 7604 East Wolf Canyon, expressed a series of concerns regarding the City of Mesa proceeding with development plans that would expand Falcon Field Airport. He also

questioned why the City ignores the wishes of citizens who do not want the airport expanded and prefer a less crowded and less polluted lifestyle.

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

5b. Take action on the following resolution:

GPMInor08-07 (District 5) The 4200 to 4300 blocks of East McKellips Road (north side) and the 2000 to 3900 blocks of North Greenfield Road (west side). Located north of McKellips Road and west of Greenfield Road (151.93± ac). General Plan Minor Amendment to change the General Plan Land Use Map from MUE to BP (63.59± ac) and NAOS (88.34± ac). This request will allow Falcon Field Airport to protect the land southwest of the runways and to lease the land north of that area to commercial developers. City of Mesa, owner; Corinne Nystrom, Falcon Field Airport Director, City of Mesa, applicant – Resolution No. 9259. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)*** **COMPANION CASE Z08-22.**

P&Z Recommendation: Adoption. (Vote: 7-0).

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that Resolution No. 9259 and Ordinance No. 4839 (item 5c) be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Somers-Truitt-Walters-Whalen
NAYS - Rawles

Mayor Hawker declared the motion carried by majority vote and Resolution No. 9259 and Ordinance No. 4839 adopted.

5c. Take action on the following ordinance introduced at a prior Council meeting:

Z08-22 (District 5) The 4200 to 4300 blocks of East McKellips Road (north side) and the 2000 to 3900 blocks of North Greenfield Road (west side). Located north of McKellips Road and west of Greenfield Road (151.93± ac). Rezone from M-1 to PEP (63.59± ac) and PF (88.34± ac), and approval of a Development Master Plan. This request will allow Falcon Field Airport to protect the land southwest of the runways and to lease the land north of that area to commercial developers. City of Mesa, owner; Corinne Nystrom, Falcon Field Airport Director, City of Mesa, applicant – Ordinance No. 4839. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)*** **COMPANION CASE GPMInor08-07.**

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

(See Item 5b for Council action on this item.)

6. Discuss, take public comment and take action on the following Minor General Plan Amendment and zoning case:

6a. Public Hearing on Minor General Plan Amendment **GPMInor08-08 (District 1)**

Mayor Hawker announced that this is the time and place for a public hearing on Minor General Plan Amendment **GPMInor08-08**.

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

6b. Take action on the following resolution:

GPMInor08-08 (District 1) 1310 East McKellips Road. Located north of McKellips Road and east of Stapley Drive (2.1± ac). General Plan Minor Amendment to change the General Plan Land Use Map from O to NC (1.1± ac). This request will allow the development of a neighborhood fitness center. Jeff Kost, NWC McKellips & Doran, L.L.C., owner; Reese Anderson, Pew & Lake, PLC, applicant; Jeffrey L. Williams, R.B. Williams & Associates, Inc., engineer – Resolution No. 9260. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)*** **COMPANION CASE Z08-24.**

P&Z Recommendation: Adoption. (Vote: 7-0).

It was moved by Councilmember Rawles, seconded by Councilmember Jones, that Resolution No. 9260 and Ordinance No. 4840 (item 6c) be adopted.

Carried unanimously.

6c. Take action on the following ordinance introduced at a prior Council meeting:

Z08-24 (District 1) 1310 East McKellips Road. Located north of McKellips Road and east of Stapley Drive (2.1± ac). Rezone from O-S to C-1 (1.1± ac) and Site Plan Review. This request will allow the development of a neighborhood fitness center and office development. Jeff Kost, NWC McKellips & Doran, L.L.C., owner; Reese Anderson, Pew & Lake, PLC, applicant; Jeffrey L. Williams, R.B. Williams & Associates, Inc., engineer – Ordinance No. 4840. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)*** **COMPANION CASE GPMInor08-08.**

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

(See item 6b for Council action on this item.)

7. Discuss, take public comment and take action on the following Minor General Plan Amendment:

7a. Public Hearing on Minor General Plan Amendment **GPMInor08-02 (District 1 and 4)**

Mayor Hawker announced that this is the time and place for a public hearing on Minor General Plan Amendment **GPMInor08-02**.

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

7b. Take action on the following resolution:

GPMinor08-02 (District 1 and 4) Text Amendment to the Mesa 2025 General Plan. Minor General Plan Amendment to describe how the City of Mesa defines the Land Use categories for the Town Center Concept Plan and describes the Land Use Plan/Zoning Conformity Table for these Land Use categories – Resolution No. 9261.

The Downtown Development Committee (DDC) conducted two public meetings on the proposed Minor General Plan Amendment.

DDC Recommendation: Adoption. (Vote: 8-0).

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Resolution No. 9261 be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Somers-Truitt-Walters-Whalen
NAYS - Rawles

Mayor Hawker declared the motion carried by majority vote and Resolution No. 9261 adopted.

8. Take action on the following liquor license applications:

8a. Restaurant Depot

New Wholesaler License for Restaurant Depot, 724 West Baseline Road, RD America Inc. – Applicant, Carl Frederick Hansen – Agent. This is an existing building with no previous liquor license at this location. **(District 3)**

Carl Hansen, 13381 West Cypress, Goodyear, stated that it was not necessary for him to address the Council, but he was available to respond to any questions they may have regarding this item.

It was moved by Councilmember Rawles, seconded by Councilmember Somers, that the liquor license application for Restaurant Depot, be approved.

Carried unanimously.

*8b. Hurricane Bay

Person & Location Transfer Bar License for Hurricane Bay, 7336 East Main Street, Suite 106, Bay Entertainment LLC – Applicant, H.J. Lewkowitz – Agent. The previous Liquor Store license at this location, held by Abco Store #428, closed on 11/27/2001. **(District 5)**

*8c. Club Seis Frias

Person & Location Transfer Beer & Wine Bar License for Club Seis Frias, 111 South Dobson Road, Suite #108, Kathleen Concepcion Frias – Individual. The Series 6 Bar License application recommended for denial by the Council at the February 4, 2008 City Council Meeting was subsequently withdrawn by the applicant before the scheduled State Liquor Board hearing. This is an existing building with no previous liquor license at this location. **(District 3)**

8d. Nguyen Wholesale Retail

New Beer & Wine Store License for Nguyen Wholesale Retail, 169 East Broadway Road, Nguyen Wholesale Retail Inc. – Applicant, Hoa Thai Nguyen – Agent. This is an existing building with no previous liquor license at this location. A petition of objection to the issuance of a liquor license has been filed with the Licensing Office for this location. **(District 4)**

It was moved by Councilmember Rawles, seconded by Councilmember Somers, that the liquor license application for Nguyen Wholesale Retail, be approved.

In response to a question from Vice Mayor Walters, Ms. Spinner explained that there are 12 items that the Council may consider as a basis for a recommendation for denial of a liquor license application. She stated that one such item reads as follows: "Petitions and testimony from persons in favor of or opposed to the issuance of the license who reside in, own or lease property in close proximity."

If response to a question from Councilmember Jones, Ms. Spinner clarified that per State Statute, the City must forward any petitions that it receives to the State Liquor Board even if there is a recommendation by the Council for approval of a liquor license application.

Mayor Hawker called for the vote.

Carried unanimously.

9. Take action on the following contracts:

*9a. Three-Year Supply Contract for Drafting Print Paper for the Engineering Department.

The Procurement Services Department recommends accepting the lowest, responsive and responsible bid for Sections A & C from ScottBlue Reprographics at \$40,121.35 annually, based on estimated quantities, including contingencies and applicable taxes.

*9b. Purchase of Hardware and Software for a New Storage Area Network (SAN) for the Police Department (Quality of Life Funds).

The Procurement Services Department recommends authorizing purchase from the City of Tempe contract with IT Partners in the amount of \$495,170.58, including applicable sales tax.

- *9c. Purchase of Fourteen (14) "Ruggedized" Laptop Computers for the Police Department (Quality of Life Funds).

The Procurement Services Department recommends authorizing purchase from the National Intergovernmental Purchasing Alliance (IPA) contract with CLH International, Inc. at \$60,172.78, including applicable sales tax.

- *9d. Purchase and Installation of Furniture for the Police Technical Services Building.

The Procurement Services Department recommends authorizing purchase from the State of Arizona contract with Goodman's Interior Structures at \$188,125.26, including installation, delivery and applicable sales tax.

- *9e. Purchase of Two (2) Motorized Mobile Canopy Systems for the Police Department (Grant Funded through AZ POST Contracts) (**Sole Source**).

The Procurement Services Department recommends awarding the contract to the sole source bid from Covershots Mobile Canopies LLC at \$94,723.20, including applicable use tax.

- *9f. Purchase of Eight (8) Forensic Light Source Kits for the Police Department (Full Service Forensic Crime Laboratory Grant Funded),

The Procurement Services Department recommends accepting the lowest, responsive and responsible bid from Arrowhead Forensics at \$33,631.49, including applicable use tax.

- *9g. Purchase of Hardware and Software to Upgrade Forensic Services' Digital Image Management System (DIMS) for the Police Department (Full Service Forensic Crime Laboratory Grant Funded) (**Sole Source**).

The Procurement Services Department recommends accepting the sole source bid from Linear Systems at \$97,979.90, including applicable use tax.

- *9h. Two-Year Renewal of the Emergency Towing Services Contract for the Police Department.

The Procurement Services Department recommends authorizing two-year renewal contracts as follows: Zone 1 – Thompson Diversified (dba Valley Express Towing); Zone 2 – ACT Towing, LLC; Zone 3 – ACT Towing, LLC and Zone 4 – Apache Sands Towing.

- *9i. Two-Year Renewal Supply Contract for Intelligent Transportation Systems (ITS) Field Network Equipment for the Transportation Department, Traffic Engineering.

The Procurement Services Department recommends authorizing a two-year renewal of the Mesa contract with RuggedCom, Inc. at \$179,927.19, and purchase off the State of Arizona Contracts with Transource Computers at \$65,242.05, and Copperstate Technologies at \$65,362.54. The combined award is then \$310,531.78, including applicable taxes.

- *9j. Purchase of Hardware and Software to Upgrade the Traffic Signal Management System for the Transportation Department, Traffic Engineering (**Sole Source**).

The Procurement Services Department recommends awarding the contract to the sole source bid from Econolite Control Products, Inc. at \$498,115.20, including applicable use tax.

- *9k. Purchase of Two (2) Replacement Trucks with Service Bodies for the Utilities and Facilities Maintenance Departments.

The Procurement Services Department recommends awarding contracts to the lowest, responsive and responsible bids from Bill Heard Chevrolet, Inc. at \$33,648.70 and \$36,675.47 respectively, including applicable sales tax, for a total award of \$70,324.17.

- *9l. Three-Year Enterprise License Agreement (ELA) for GIS software licenses for the Information Technology Department (**Sole Source**).

The Procurement Services Department recommends awarding the Enterprise License Agreement to the sole source bidder, Environmental Systems Research Institute (ESRI), Inc. at \$150,290.00 annually, including applicable taxes. This then makes the contract total \$450,870.00 for the three-year agreement.

- *9m. Purchase of a Wireless Fault Indication System for the Utilities Department, Electric Division.

The Procurement Services Department recommends accepting the lowest, responsive and responsible bid from Border States Electric at \$363,250.11, including sales tax.

- *9n. Dollar Limit Increase to the Supply Contract for Uniform Garment Purchases for Various City Departments

The Procurement Services Department recommends increasing the dollar limit of the contract to International Corporate Apparel, Inc. (ICA) by \$30,000.00 to \$140,000.00, for the remainder of this contract period (through 7/31/08).

- *9o. Purchase of Three (3) Replacement Mowers for the Parks, Recreation and Commercial Facilities Department.

The Procurement Services Department recommends authorizing purchase from the State of Arizona contracts with Simpson Norton Corporation at \$49,490.24, and Golf Ventures West at \$48,714.50, for a combined total award of \$98,204.74.

- *9p. Purchase of an Automated Data Backup and Restoration System for the Transportation Department, Traffic Engineering.

The Procurement Services Department recommends authorizing purchase from the State of Arizona Contract with Darcomm Network Solutions at \$34,359.70, including applicable taxes.

- *9q. Purchase of Thirty-Nine (39) "Ruggedized" Laptop Computers and Mobile Docking Stations for the Utilities Department.

The Procurement Services Department recommends authorizing purchase from the National Intergovernmental Purchasing Alliance (IPA) contract with CLH International, Inc. at \$192,034.25, including applicable sales tax.

- *9r. Cemetery Columbarium Addition, City of Mesa Project No. 01-330-001. **(District 1)**.

This project will construct an additional columbarium (an above-ground repository for the placement of cremation urns) with 240 spaces at the cemetery.

Recommend award to the low bidder, R.K. Sanders, Inc., in the amount of \$100,188.00 plus an additional \$10,018.80 (10% allowance for change orders) for a total award of \$110,206.80. Funding is available from the approved FY 07/08 Cemetery Capital Program.

- 9s. Chilled Waterline to Municipal Court Building, City of Mesa Project No. 01-850-002. **(District 4)**.

This project will install a chilled waterline beginning at the intersection of Center Street and First Avenue and will extend east along First Avenue to the proposed location for the new Municipal Court Building.

Recommend award to the low bidder, M.M.I. Tank, Inc., in the amount of \$783,047.03 plus an additional \$78,304.70 (10% allowance for change orders) for a total award of \$861,351.73. Funding is available from Public Safety Bonds and the Utility Fund.

Mayor Hawker declared potential conflicts of interest relative to items 9s and 9t and said he would refrain from discussion/consideration of these agenda items. He yielded the gavel to Vice Mayor Walters for action on these items.

It was moved by Councilmember Jones, seconded by Councilmember Somers, that the recommendations of staff relative to items 9s and 9t be approved.

Upon tabulation of votes, it showed:

AYES - Jones-Rawles-Somers-Truitt-Walters-Whalen
ABSTAIN Hawker

Vice Mayor Walters declared the motion carried unanimously by those voting.

With action on these items being completed, Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- 9t. Main Street SMART Instrumentation, City of Mesa Project No. 02-327-001. **(District 3 and 4)**

This project includes the installation of fiber optic communication lines in both the existing conduit and new conduit along Main Street from Sycamore (east of Dobson

Road) to Mesa Drive in Mesa and on a portion of Apache Boulevard in Tempe. Improvements also include upgrading pedestrian features of the traffic signals and installing two cameras for improved traffic monitoring.

Recommend award to the low bidder, Kleven Construction, in the amount of \$604,052.40 plus an additional \$60,405.24 (10% allowance for change orders) for a total award of \$664,457.64. Of the total amount of \$664,457.64, \$626,583.55 (94.3%) will be from the Federal grant and \$37,874.09 (5.7%) will be from the City of Mesa for the portion of the work within the City of Mesa. The City of Tempe will contribute equipment to the project. Funding is available from the approved FY07/08 Transportation Operating Budget.

(See Item 9s for Council action on this item.)

- *9u. Desert Well No. 18 Drilling Phase, City of Mesa Project No. 03-080-001. **(District 6)**

This project will drill a new well to expand the City's water supply capabilities and system reliability in southeast Mesa.

Recommend award to the low bidder, Arizona Beeman Drilling, in the amount of \$932,490.00 plus an additional \$93,249.00 (10% allowance for change orders) for a total award of \$1,025,739.00. Funding is available from the approved FY 2007/08 Water Bond Program.

- *9v. Baseline Wastewater Interceptor Siphon Inlet and Outlet Structure Rehabilitation (Baseline Road and 101 Freeway), City of Mesa Project 03-083-001. **(District 3)**

The City Council is asked to ratify an increase to the existing contract amount to pay for unforeseen conditions that were discovered during construction of this project.

In accordance with City Policy on construction contract change orders, the Council is asked to ratify the increase of \$300,559.00 to the construction contract. The original contract amount was \$2,941,450.00, plus an allowance of \$294,145.00 for change orders, for a total contract amount of \$3,235,595.00. With the increase of \$300,559.00, the new contract amount is now \$3,536,154.00. Funding for the increase is available from Wastewater Bonds.

- *9w. Fire Station 204 and 205 Sleep Room Remodel, City of Mesa Project No. 07-914-001. **(District 3 and 6)**

This project will provide walls to separate the sleep areas of the engine company and the ladder company from each other at Fire Stations 204 and 205.

Recommend award to the low bidder, Shannon Construction, LLC, in the amount of \$68,332.91 plus an additional \$6,833.29 (10% allowance for change orders) for a total award of \$75,166.20. Funding is available from the approved FY 07/08 Fire Capital Program.

- *9x. Fitch Park Training Facility Flooring, City of Mesa Project No. 07-915-001. **(District 4)**

This project will replace approximately 700 square feet of tiled floor in the showers and hydrotherapy room, and approximately 2,000 square feet of epoxy floor in the lavatory areas that is now beyond its expected service life and has deteriorated such that the underlying concrete floor has become exposed in some areas.

Recommend award to the low bidder, Continental Flooring Company, in the amount of \$38,964.00 plus an additional \$3,896.40 (10% allowance for change orders) for a total award of \$42,860.40. Funding is available from the approved FY 07/08 Facilities Maintenance.

10. Introduction of the following ordinances and setting June 2, 2008, as the date of the public hearing on these ordinances:

- *10a. **A07-12 (District 5)** Annexing land located south and east of Recker Road and Brown Road (1.18 ± ac). Initiated by the property owner, Richard M. Leckey.
- *10b. **Z08-29 (District 6)** 6859 East Rembrandt Avenue. Located north of Warner Road and east of Power Road (14,100± sf). Council Use Permit. This request will allow a Charter school within an industrial zoned area. Lance Richards; Pierpont Santan Two, LLC, owner; Larry Pieratt, applicant. (**Notified property owners, homeowners associations and registered neighborhoods.**)

PHO Recommendation: Approved with Conditions.

11. Take action on the following resolutions:

- *11a. Approving and authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Mesa Centerpointe Plaza, LLC, and the City of Mesa for the reimbursement of \$72,859.24 for regional Street Lighting and Traffic Signal improvements that are being required by Mesa in conjunction with a proposed commercial development known as Signal Butte Self-Storage located at 10954 East Guadalupe Road. Mesa's estimated share of funding will come from FY 07/08 Budget – Resolution No. 9247. (**District 6**)
- *11b. Authorizing the execution of a Deed of Partial Release and Partial Reconveyance to Mesa Public Schools at Webster Elementary School located at 202 North Sycamore Street – Resolution No. 9248. (**District 3**)

This is to release the obligations of Mesa's Deed of Trust on a small irrigation area owned by USA Bureau of Reclamation.
- *11c. Vacating an alley right-of-way between North Stapley Drive and North Lazona Drive and between East 1st Place and East 2nd Street – Resolution No. 9249. (**District 2**)

This alley is being vacated at the request of the adjacent property owners to better secure the area. A Public Utility and Facilities Easement will be retained for access by the utility companies.
- *11d. Granting two High Voltage Easements to Salt River Project over City-owned property in Pinal County – Resolution No. 9250.

These easements are needed for the Pinal West to Southeast Valley/Browning 500kV Project as approved by the Arizona Corporation Commission.

- *11e. Approving and authorizing the City Manager to execute an Airport Development Grant Agreement # E8F99 between the Arizona Department of Transportation (ADOT) Aeronautics Division and the City of Mesa for \$10,218.00 to construct the perimeter Access Control (Phase 2) project – Resolution No. 9251. **(District 5)**
- *11f. Approving and authorizing the City Manager to execute a Grant Agreement Amendment #1 to extend the expiration date of existing grant # E6S22 (Design & Construct Echo Ramp Expansion) between the Arizona Department of Transportation (ADOT) and the City of Mesa from June 30, 2008 to June 30, 2009 – Resolution No. 9252. **(District 5)**
- *11g. Approving and supporting the submittal of a grant application to the Ak Chin Indian Community – Resolution No. 9253.

This application is submitted by the Police Department in the amount of \$57,312.80 for equipment upgrades for the Traffic Vehicular Crimes Unit.

- 11h. Approving and supporting the submittal of four grant applications for non-profit organizations to the Ak Chin Indian Community – Resolution No. 9262.

These applications are submitted for the Child Crisis Center (\$50,000 to provide family support for children of incarcerated parents and children residing with kinship caretakers), Bridging AZ Furniture Bank, Inc. (\$42,000 for a new delivery truck and operational support), Creative Innovations (\$50,000 for family preservation services), and American Fatherhood & Family Association (\$65,000 to help establish a Fathers' Resource Center in Mesa).

Councilmember Whalen declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that Resolution No. 9262 be adopted.

Mayor Hawker stated that the manner in which the Indian communities distribute their 12% Indian Gaming Grant Program money to non-profit organizations that submit applications to the City of Mesa is "a flawed system." He also questioned why the City does not have a mechanism in place to "screen the applicants" requesting the funding.

In response to a question from Councilmember Rawles, Grants Coordinator Jerry Dillehay clarified that the City forwards on to the Indian community all of the applications that are submitted and also verifies that the entity is a legitimate non-profit organization and located in Mesa.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Somers-Truitt-Walters
NAYS - Hawker-Rawles
ABSTAIN - Whalen

Mayor Hawker declared the motion carried by majority vote of those voting and Resolution No. 9262 adopted.

- *11i. Approving and authorizing the City Manager to submit a Grant Application for State Heritage Funds in the amount of \$100,000 for Mesa Grande Cultural Park – Phase 1 – Resolution No. 9254. **(District 1)**
- *11j. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with the State of Arizona to design and construct fiber optic cables and related pull boxes and enclosures along a portion of L202 (Red Mountain Freeway) between L101 and Gilbert Road. The City’s estimated cost is \$123,120 (HURF Funds) – Resolution No. 9255. **(District 1)**
- *11k. Approving and authorizing the City Manager to execute an EEI Master Power Purchase and Sales Agreement and a Letter of Confirmation for Supplies of Electric Power and Energy to Replace the Expiring Firm Power Sales Agreement between Arizona Electric Power Cooperative and the City of Mesa – Resolution No. 9256.
- 11l. Approving the City of Mesa’s Financial Policies as recommended by the Audit and Finance Committee – Resolution No. 9263. (Approval. Vote: 3-0)

Tom C. Schuelke, 7604 East Wolf Canyon, addressed the Council and suggested a number of modifications with regard to Financial Policy 4, “Debt Issuance and Management.” He stated that Section 4.1 (The City of Mesa should impose a secondary property tax at a rate necessary to offset General Obligation bond debt.) is the most troublesome item and commented that it is unclear whether it refers to new or existing debt.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Resolution No. 9263 be adopted.

In response to a question from Councilmember Somers, City Manager Christopher Brady clarified that the City Council is not enacting a secondary property tax at this time. He explained that 4.1 is a representation that the City made to the community and the bond rating agencies that any future General Obligation bond debt (or existing bond debt, if the Council so chose) would be supported by a secondary property tax.

Councilmember Somers commented that it is important to note that any discussion regarding the implementation of a secondary property tax either for existing or future bond debt would be part of the public discourse if and when the occasion arose.

Mayor Hawker expressed appreciation to staff for drafting the financial policies and the Council for providing their input in this regard. He stated that the document would serve as a valuable tool for future Councils relative to the City’s financial operations and the development of financial forecasts.

Mayor Hawker called for the vote.

Carried unanimously.

- *11m. Approving and authorizing the City Manager to execute amendments to lease agreements with MD Helicopters, Inc. for parcels D1/D2, D-3 and NW 3/4 at Falcon Field Airport – Resolution No. 9257. **(District 5)**

12. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the 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 Clerk before Council votes on the consent agenda.

- *12a. Amending the Mesa Tax Code (MTC) as a result of the adoption of changes to the Model City Tax Code (MCTC) – Ordinance No. 4835 – as follows:

Exemption of Solar Energy Devices (Sections 5-10-100, 415, 416, 417, 465)

Exemption of Architectural and Engineering Fees (Sections 5-10-415, 416, 417)

Revision of the definition of Out-of-State Sales (Section 5-10-100, Regulation 5-10-350.3)

- 12b. Amending Section 5-10-445 of the Mesa City Code regarding lowering the threshold of residential properties owned for taxation from three properties to two properties – Ordinance No. 4841.

Tom C. Schuelke, 7604 East Wolf Canyon, commented that instead of working to raise more revenue from the tax on residential rentals, this and future Councils should work to eliminate sales tax on such properties. He stated that renters pay a disproportionate share of the sales taxes collected even though a house that is rented uses no more in City services than a house that is owner-occupied.

Vice Mayor Walters reminded everyone that several years ago, Mesa voters had the opportunity to determine whether they wanted to continue to have a sales tax on residential rental properties and they approved the measure.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Ordinance No. 4841 be adopted.

Councilmember Rawles stated that in order for the Council to address this item before they left office, there was not sufficient time for the matter to be presented to the Audit & Finance Committee. He expressed opposition to the implementation of “a projected \$700,000 tax increase” and added that with the current downturn in the economy, it is the wrong time to do so.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Somers-Truitt-Walters-Whalen
NAYS - Rawles

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4841 adopted.

- 12c. Amending Section 11-1-6 of the Mesa Zoning Ordinance by adding definitions for “Auto Title Lenders,” “Deferred Presentment Lenders,” and “Non-chartered Financial Institutions.” (aka “Payday Loan Stores”.) Also amending Chapter 11-6 of the Mesa Zoning Ordinance pertaining to permitted uses within commercial zoning districts, including “Auto Title Lenders”, ”Deferred Presentment Lenders” and “Non-chartered Financial Institutions”; requirements for separations between these uses and residential uses; requirements for separations between these uses and like uses; and requirements related to the review, evaluation and processing of requests for proposed locations of these uses – Ordinance No. 4842.

P&Z Recommendation: Approval of Option C, which includes Option B plus a Council Use Permit. (Vote: 5-0 with Boardmember Langkilde and Salas absent)

DDC Recommendation: Approval of Option B. (Vote: 6-0 with Boardmembers Decker, Gallagher and Holtz absent)

Tom C. Schuelke, 7604 East Wolf Canyon, questioned who would be the beneficiaries of the proposed 1,200-foot separation limitation. He stated that such a separation would make it more difficult for customers to “comparison shop” with regard to loan terms.

Nate Caine, 1325 West Keats Avenue, expressed support for the proposed 1,200-foot separation restriction on payday loan stores. He also noted that such businesses place a significant burden on City services, including Police and Code Compliance.

Diane Woods, 1426 West Pepper Place, voiced a series of concerns regarding payday loan stores and commented that many individuals who utilize the businesses are often unable to pay back the loans due to the high interest rates.

Councilmember Whalen commented that when this issue was first presented to the Council, he voted in opposition to the 1,200-foot separation between payday lenders and similar fee-based loan and check cashing stores. He stated that he now believes he was wrong in that decision and noted that he had thought the market would address the proliferation of payday loan stores, which it has not. Councilmember Whalen added that when Mesa residents see a succession of payday loan stores open in their neighborhoods, there is a feeling of blight and a deterioration of the area.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that Ordinance No. 4842 be adopted.

Councilmember Somers stated that he also previously voted in opposition to this measure. He advised that in two years, the State law that entitles the operation of payday loan stores would expire and he urged everyone to encourage their State legislators to “let this die.”

Councilmember Rawles said that he expressed many reasons for his opposition to this item when the matter was previously discussed and noted that such comments remain perfectly valid today.

Mayor Hawker stated that he opposed this item when it was previously presented to the Council. He said that he supports the expiration of the law with regard to payday loan stores and believes that there are other banking alternatives available to individuals. Mayor Hawker added that he has not voted in the past to limit the number of gas stations or drugstores in the community, and commented that even though he recognizes “the connotation” with payday loan stores as being different, it is not dissimilar enough for him that he would support regulating the spacing requirements relative to this industry.

Vice Mayor Walters indicated that the payday loan industry is “not sitting on the sideline waiting for the State Legislature to do nothing” and are collecting signatures in an attempt to place a measure on the November ballot with regard to this issue.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Jones-Somers-Truitt-Walters-Whalen
NAYS - Hawker-Rawles

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4842 adopted.

12d. Amending Sections 11-1-6, 11-5-3, 11-6-3 and 11-6-4 of the Zoning Ordinance regarding Group Homes for the Handicapped and Supervised Living Facilities. The amendment revises and deletes existing definitions related to “Group Homes for the Handicapped (GHHS)” and “Supervised Living Facilities (SLFs).” It adds a definition for “Correctional Transitional Housing Facilities (CTHFs)” – Ordinance No. 4843.

The amendment revises Sections 11-5-3, 11-6-3 and 11-6-4 regarding permitted uses in the R-4 and all Commercial Zoning Districts, permitted locations of SLF/CTHFs, required spacing between similar SLF/CTHF land uses and criteria for evaluating land uses requiring Council Use Permits.

Steve Collins, 1825 South Cholla, the operator of a group home, stated that he has met with the Council and staff on several occasions to discuss the issue of group homes. He noted that the predominant issue was the “rogue” group homes that have been created in the community and the City’s inability to effectively target and eliminate such facilities. Mr. Collins added that group homes were created to assist the poor, misguided and the unfortunate and stated that such facilities try to give back to the community. He expressed opposition to the proposal for Council consideration.

Cletus Hudson, 2210 West Cabana Avenue, a resident in a recovery facility, stated that he is a few days away from completing parole due to the assistance and care he has received in the facility. He voiced opposition to the proposal.

Michael Leonard, 2412 East Edgewood, representing residents of Southern Estates, expressed support for the proposal.

Mary Ann Hogle, 1421 South Creston Circle, expressed appreciation to the Council for moving ahead with the proposal and stated that it offers greater clarification regarding the difference between a recovery home and group home for the handicapped. She also suggested that the occupancy of group homes be limited to six individuals.

Mayor Hawker advised that the following individuals submitted speaker cards and expressed opposition to the item, but did not wish to address the Council:

Kieran Payton,	1463 East Diamond Avenue
Donald Jacobson	2210 West Cabana Avenue
Caren Swart	1463 East Diamond Avenue

Vice Mayor Walters commented that the City of Mesa would endeavor to follow Federal law as any other city with regard to this issue. She also stated that the proposal is not the end of the process and that the City would continue to engage in discussions with group home operators. Vice Mayor Walters added that the proposal is intended to ensure that Mesa's laws and ordinances are clear and consistent with Court decisions.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Ordinance No. 4843 be adopted.

Councilmember Rawles stated that he is sensitive to the burden placed on society when individuals are released from prison, as well as the burden on those individuals who are released back into society. He concurred with Vice Mayor Walters' comments and added that society cannot "turn its back" on individuals who make mistakes.

Councilmember Whalen indicated that for more than 25 years, he has been an advocate for the recovery community. He said that part of the problem with the current ordinance is that certain facilities have been licensed by the City and that "bad operators" have been able to hide behind those licenses, thus giving them a certain level of credibility.

Councilmember Jones also concurred with the comments of his fellow Councilmembers.

Mayor Hawker called for the vote.

Carried unanimously.

12e. Repealing Title 5, Chapter 2 of the Mesa City Code regarding licensing of group homes for the handicapped and supervised living facilities – Ordinance No. 4844.

Steve Collins, 1825 South Cholla, stated that he has yet to find a department within the State of Arizona that licenses group homes. He stated that he would oppose this item until such time as an agency has been established and funded to serve in that capacity.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that Ordinance No. 4844 be adopted.

Carried unanimously.

- 12f. Amending Section 6-4-20 through 6-4-31 of the Mesa City Code relating to livestock restrictions in the City. This amendment will transfer the livestock restrictions from Title 6 of the Code (Police Regulations) to Title 8 of the Code (Health, Sanitation and Environment). The effect of the proposed amendments and changes would be to allow for the Code Compliance Division to enforce the livestock restrictions; to impose a civil penalty, rather than a criminal penalty for the violation of the livestock restrictions; and allow for the pre-existing exercise of livestock privileges to remain in compliance when improvements to adjacent properties are made as recommended by the Public Safety Committee – Ordinance No. 4845. (Approval. Vote: 3-0)

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Ordinance No. 4845 be adopted.

Carried unanimously.

- 12g. Amending Title 9, Chapters 6 and 8 of the Mesa City Code and the Engineering and Design Standards of the City to modify the requirements for public street improvements adjacent to developing properties as recommended by the Transportation and Infrastructure Committee. (Approval. Vote: 3-0)

Building Safety Director Terry Williams reported that this item comes forward as a recommendation from the Transportation & Infrastructure Committee (TIC). He explained that the Committee reviewed various options for the City of Mesa to deal with exactions, or those requirements within the ordinance for street improvement projects for development in Mesa. Mr. Williams advised that at that time, discussion occurred whether the current policy should remain (which requires certain exactions of developers such as up to 24 feet of paving, concrete curbing, landscaping, sidewalks, et cetera) or to expand the requirements similar to those in other communities and require the full half street to be developed at the expense of the developer.

Mr. Williams further spoke regarding Mesa's "City Share" program, in which the City pays a portion or all of the additional expense for arterials wider than 24 feet. He noted that this item would eliminate those elements and also modify the City's street lighting and intersection improvement signalization requirements. Mr. Williams added that the item would not change the "City Share" program as it relates to the larger size of infrastructure piping for water and wastewater systems.

The following speakers, in order of appearance, spoke in opposition to this agenda item:

Craig Ahlstrom	2233 South Springwood Boulevard
Kendall Baxley	1512 South Sunnyvale Circle
Shelly McTee	2575 East Camelback Road, Phoenix
Bryan Hubbard	2650 South Willow Wood

The above-listed speakers spoke in opposition to staff's recommendations for the following reasons:

- This issue was presented at the April 17th Transportation & Infrastructure Committee meeting, but representatives of the development community were not notified of the meeting.

- The Arizona Home Builders Association expressed concern that reducing Mesa's participation in the "City Share" program may result in extending the recovery efforts of new home activities in Mesa.
- Requested that the proposal be continued to allow stakeholders, through the Development Advisory Forum, the opportunity to offer their input/feedback relative to the matter.

Councilmember Rawles concurred with the speakers that this item should be presented to the Development Advisory Forum before a decision is made by the Council.

City Manager Christopher Brady reminded the Council that "City Share" is derived from the City's bond fund. He explained that if the City continues with the existing authorization of bond funds, "City Share" funding would not be available. Mr. Brady also stated that regardless of the City's policy, Mesa's ability to participate in street improvement projects for development is limited by the amount of bond funds that are available to contribute. He added that a decision must be made by the Council soon relative to the amount of the bond package that will be submitted to the voters, which, in turn, would determine the availability of the "City Share" funds in the future.

In response to a question from Councilmember Rawles, Development Services Department Director Christine Zielonka explained that staff has scheduled a special meeting of the Development Advisory Forum for May 28th to address the concerns that have been expressed by the speakers tonight.

It was moved by Councilmember Rawles, seconded by Councilmember Whalen, that this item be continued to the June 23, 2008 Regular Council Meeting and that the matter be presented to the Development Advisory Forum at their May 28th meeting to solicit the stakeholders' input in this regard.

Mayor Hawker expressed support for the motion. He commented that it would be an interesting discussion for the next Council to establish their priorities regarding the amount that should be fully funded by those entities that are benefiting by the improvements because the arterial streets front their properties.

Councilmember Truitt concurred with the speakers that this item should have been presented to the Development Advisory Forum. He questioned, however, whether such a meeting would really change anyone's opinion and that the stakeholders would support the elimination of the "City Share" program.

Vice Mayor Walters stated that she would prefer that this item be continued and commented that she would like to see impact fees pay for the costs referenced by Mr. Williams.

Councilmember Jones commented that the "City Share" program as it exists today cannot continue. He stated that it was implemented at a time to encourage growth and development and when Mesa was "much more flush with funds."

Discussion ensued relative to the "City Share" development agreements; the fact that the effective date for the proposed changes is January 1, 2009; and that in the \$408 million proposed bond package, \$15 million, in a five-year program, is assumed in the "City Share" program.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Rawles-Truitt-Walters-Whalen
NAYS - Jones-Somers

Mayor Hawker declared the motion carried by majority vote.

- *12h. **Z08-14 (District 6)** The 8800 to 9200 block of East Elliot Road (north side) and 3200 to 3600 block of South Ellsworth Road (west side). Located west and north of Ellsworth and Elliot Roads (127± ac). Site Plan Review (86± ac) and rezone from R1-43 to C-2 DMP (73± ac) and PEP DMP (13± ac); and Rezone from R1-43 to C-2 DMP (25± ac) and PEP DMP (16± ac). All part of the Elliot Fiesta Development Master Plan. This request will allow for the development of a portion of the Elliot Fiesta DMP with a power and employment center and future planned employment uses. Douglas Himmelberger, DeRito Partners Development, Inc., owner; Michelle Santoro, Withey Morris, PLC, applicant; Jeffery S. Erickson, Erickson & Meeks, Engineering, LLC, and Tove Christina White, Kimberly-Horn and Associates, Inc., engineers – Ordinance No. 4836. (**Notified property owners, homeowners associations and registered neighborhoods.**)

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmember Langkilde and Salas absent)

- 12i. **Z08-21 (District 6)** 5524 East Baseline Road. Located on the north side between Higley Road and Recker Road (2.34± ac). Site Plan Modification. This request will allow for construction of a new warehouse addition to an existing office building. Lynn Urry, owner; Gregory Hitchens, applicant/engineer – Ordinance No. 4846. (**Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.**)

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

Councilmember Truitt declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Ordinance No. 4846 be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Somers-Rawles-Walters-Whalen
ABSTAIN - Truitt

Mayor Hawker declared the motion carried unanimously by those voting and Ordinance No. 4846 adopted.

- *12j. **Z08-23 (District 5)** 3845 North Higley Road. Located on the east side of Higley Road and north of Thomas Road (1.60± ac). Rezone from R1-90 to M-1 and Site Plan Review. This request will allow the expansion of a metal fabrication shop. Steve Wright, Sheet

Metal Works of Arizona, owner; William Petrie, Petrie Planning & Development Services, L.L.C., applicant; Gregory L. Allen, Allen Consulting Engineers, Inc., engineer – Ordinance No. 4837. (**Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.**)

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

- 12k. **Z08-25 (District 1)** 1150 North Alma School Road. Located south of Brown Road on the west side of Alma School Road (34.54± ac). Rezone from PEP DMP to PEP PAD DMP. This request will allow modifications to a previously approved site plan and the creation of an office subdivision. Joshua Mulhall, Lauth Property Group, owner/applicant; Mark Beck, Kimley-Horn Associates, Inc. engineer – Ordinance No. 4847. (**Notified property owners, homeowners associations and registered neighborhoods.**)

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

Mayor Hawker and Councilmember Rawles declared potential conflicts of interest and said they would refrain from discussion/consideration of this item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Somers, seconded by Councilmember Jones, that Ordinance No. 4847 be adopted.

Upon tabulation of votes, it showed:

AYES - Jones-Somers-Truitt-Walters-Whalen
ABSTAIN - Hawker-Rawles

Vice Mayor Walters declared the motion carried unanimously by those voting and Ordinance No. 4847 adopted.

With action on this item being completed, Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- 12l. **Z08-28 (District 2)** 2860 East Main Street. Located north of Main Street and east of Lindsay Road (.20± ac). Council Use Permit. This request will allow the use of a pawnshop in an existing shopping center. Eric A. Nelson, owner; Brad Shain, Max-It Pawn & Retail, applicant – Ordinance No. 4848. (**Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.**)

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

It was moved by Councilmember Rawles, seconded by Councilmember Whalen, that Ordinance No. 4848 be adopted.

Councilmember Somers expressed opposition to the motion and stated that a pawnshop is not the type of use that belongs in the surrounding neighborhood.

Upon tabulation of votes, it showed:

AYES - Hawker-Rawles-Truitt-Walters-Whalen
NAYS - Jones-Somers

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4847 adopted.

- *12m. **Z07-120 (District 6)** 423 South Signal Butte Road. Located on the south side of Broadway Road and the east side of Signal Butte Road (13.5+ acres). Rezone from R1-6-PAD to R1-6 and C-2 and Site Plan Review for the development of a neighborhood commercial center for the western most 4.64 acres of the property. Tom Alford, DeRito Partners Development, Inc., owner; Michelle Santoro, Whitney Morris, P.L.C., applicant; Tom Meeks, Erickson & Meeks Engineering, L.L.C., engineer. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.) (Continued from the January 22, 2008, March 17, 2008 and April 21, 2008 Council Meetings). THE APPLICANT HAS REQUESTED THAT THIS ITEM BE CONTINUED TO THE JUNE 23, 2008 COUNCIL MEETING.***

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

- *13. Adopt a Notice of Intention to increase rates or rate components, fees and/or service charges for district cooling, irrigation water, natural gas, reclaimed water, solid waste, wastewater and water and establishing June 23, 2008 as the date for the public hearing.

- *14. **Deleted.**

- *15. Assign delinquent accounts to collection services for the three-month period ending March 31, 2008 totaling \$670,725.

(Mayor Hawker declared a recess at 7:50 a.m. The meeting reconvened at 8:00 p.m.)

16. Hear, discuss and take action on the appeal of the following Planning & Zoning Board case:

- 16a. **Z08-10 (District 6)** 307 South Hawes Road. Located north of East Broadway Road and east of South Hawes Road (10.2± acres). Site Plan Review. This request will allow the development of an apartment complex. Chris Anderson, Riesgo Mesa 8, LLC, owner; Ralph Pew, Pew & Lake PLC, applicant; Ogbonna I. Abarikwu, The CK Group Inc., engineer.

P&Z Decision: Approval with Conditions. (Vote: 4-3 with Boardmembers Carter, Roberts and Langkilde, nay.)

Ralph Pew, 1930 East Brown Road, representing the property owner and the applicant, stated that there are adjoining property owners who have appealed the decision of the Planning & Zoning (P&Z) Board to approve the Site Plan. He suggested that it might be a more efficient use of the Council's time if the appellants first expressed their concerns, after which time he would respond to those concerns.

Benjamin Bitter, 451 South Hawes Road, Lot #40, provided an extensive analysis with regard to his reasons for filing the appeal in this case. His comments included, but were not limited to, the

following: that the property is surrounded by residential neighborhoods and there are no commercial areas nearby; the project does not conform to the General Plan; and that the City is not obligated to allow the maximum density permitted under the R-4 zoning. Mr. Bitter requested the following: 1.) That the Council delay action on this case so that the winter visitors who reside in the area are given the opportunity to offer their input in this matter; 2.) That the property owner be required to proceed through the General Plan amendment process as required by law; and 3.) The City initiate a zoning change for the parcel to reflect surrounding land uses and the goals of the General Plan.

Viki Buysse, 331 South 84th Way, who resides in a County island adjacent to the property, expressed concern regarding the possibility of a fire occurring at the proposed 210-unit multi-family apartment complex since there is only one entrance into the site.

Joy Griffis, 325 South 84th Way, stated that she collected 130 signatures from nearby residents, the majority of whom are retirees and winter visitors, who oppose the project. She advised that many of the residents who were in attendance at the only public meeting she is aware of were upset regarding the project and felt their concerns were "pushed under the table" by the developer.

Rollin L. Bode, 824 Main Street, expressed concern that the apartment project, which he understands would be low-income housing, will bring crime to the area. He also stated that the three-story apartments would look down onto the adjacent mobile home park residences.

Preston Stoddard, 451 South Hawes Road, Lot #34, stated that the proposed project is taking land from a golf course to the highest density possible. He added that at the very least, the property owners should proceed through the General Plan amendment process.

Mayor Hawker advised that the following individuals submitted speaker cards and were in opposition to the case, but did not wish to address the Council:

Brittany Bitter	451 South Hawes Road, Lot #40
Jill Rogers	8421 East Main Street, #13
Mary Knickerbocker	8421 East Main Street, #83
Barbara Voight	8421 East Main Street, #137
William Knickerbocker	8421 East Main Street, #83
Teresa Walheim	8502 East Alder
Eric Stoddard	451 South Hawes Road, Lot #34

Mr. Pew offered the following responses to the speakers concerns: the apartment complex would have two entrances (the main entrance on Hawes Road and another located further to the northwest); the Site Plan was reviewed and approved by the City of Mesa Fire Department; that there are elements of the project that are three stories in height, but those locations are set back from the adjoining neighbors by more than 90 feet; that the Site Plan meets all of the design criteria and has been approved by the Design Review Board and recommended to the Council by staff and the P&Z Board; that neighborhood meetings were held in December of 2007 and February of this year; and that the General Plan has absolutely nothing to do with this case and the applicant is simply asking for Site Plan approval.

Deputy City Attorney Donna Bronski provided an extensive legal analysis with regard to this case. She explained that per the State annexation law, when property is annexed into the City,

there must be comparable zoning established on the property. Ms. Bronski advised that as a result of such law, the City established an R-4 zoning designation, which is most comparable to the previous County R-5 zoning. She stated that the R-4 zoning allows the development of the apartment complex on the subject property and noted that tonight's action is an appeal of the Site Plan and explained that those development rights already exist on the property, Ms. Bronski added that if the Council does not approve the Site Plan, the applicant could return with another Site Plan that is also R-4 zoning and has similar density.

Planning Director John Wesley offered a short synopsis of the case and reiterated many of the comments previously made by Mr. Pew and Ms. Bronski. He noted, in particular, that the site has a General Plan designation of 6 to 10 dwelling units per acre. Mr. Wesley also stated that the Site Plan meets all of the standards set forth in the Zoning Ordinance and explained that staff worked closely with the applicant to modify any aspects of the design that have been presented. He added that the range of density for R-4 is 17 to 25 dwelling units per acre and said that the approved Site Plan Review contains 24.1 dwelling units per acre.

Mr. Pew further clarified that the project would be a luxury apartment complex, as opposed to the low-income housing alluded to by Mr. Bode.

It was moved by Councilmember Whalen, seconded by Councilmember Rawles, that the decision of the Planning & Zoning Board approving Z08-10 be upheld.

Carried unanimously.

17. Discuss, take public comment and take action on the following Development Agreement, Minor General Plan Amendment and zoning case:

Mayor Hawker stated that because items 17a, b, c and d all relate to Parcel 51 at Las Sendas, he would prefer to conduct one public hearing so that the citizens wishing to offer their comments on the different items can do so at one time. He thanked the Las Sendas residents for taking the time to designate spokespersons to address their concerns to the Council in this regard.

Reese Anderson, 1930 East Brown Road, the applicant, stated that the Council has provided the developer clear direction with regard to this case and noted that such direction has been carried out. He thanked the Council and staff for their assistance and input and added that this project has had some of the most extensive neighborhood outreach of any case his office has been involved in for quite sometime.

Barry Berkus, a principal of the Berkus Design Group, displayed schematic drawings in the Council Chambers and provided a brief overview of the Site Plan for the "Desert Creek at Las Sendas" mixed use development. (The drawings are available for review in the City Clerk's Office.)

The following speakers, in order of appearance, spoke in opposition to the proposed development at Parcel 51 at Las Sendas:

Nicholas Camalone	7617 East Sayan Street
Shirley Duclos	3347 North Boulder Canyon
Bill Hall	3933 North Arboles Circle

James Peters	6819 East Pearl Street
Jodi DeBerry	3060 North Ridgecrest, #113
John Duclos	3347 North Boulder Canyon
Greg Marek	3060 North Ridgecrest, #182
Dennis G. Bassi	7533 East Orion Circle
Jill Hering	7415 East Orion Circle
Alan Lefors	7960 East Sierra Morena Circle
Clyde Hostetter	3055 North Red Mountain, # 190
Lynn Wiley	3055 North Red Mountain, #177
Carol Walters	2909 North Avoca Circle
Tom Schuelke	7604 East Wolf Canyon
Patricia Lindseth	2828 North Avery
Ren Vurpillat	3527 North Barron
Laura Schemitsch	6937 East Pearl Street

Speakers spoke in opposition to this item for the following reasons:

- Las Sendas residents expect the Parcel 51 development to be in character with the rest of the community and the Sonoran Desert Uplands environment.
- The development must provide harmonious and compatible architecture that blends, integrates and compliments the community enclaves that are contiguous to Parcel 51.
- The development should offer upscale amenities, including first class dining.
- There are no homes in Las Sendas with roof heights greater than 25 feet.
- The community likes the development as proposed, but the residents remain troubled by the City's requirement that JCA Holdings build office buildings and a destination resort/hotel, which are too tall and out of character with the Las Sendas neighborhood.
- The residents would not oppose the Council's direction to replace some of the residential components of the parcel with two-story office buildings that would provide the employment uses desired by the Council, while allowing the office buildings in the southwest quadrant of the development to also be two-story buildings.
- The residents would ask that the Council approve the rezoning of the project, but limit the Class A office building height to two stories and limit the hotel to three stories.
- The landscaping and entry features should be installed in the first phase of the development.
- A resort/hotel would bring additional traffic and crime to the area.
- The Development Agreement should be revised and approved by the new City Council prior to their summer recess.
- The Development Agreement does not ensure that the mixed-use development would be built.
- The residents would prefer that the development have a residential component of 25-30%.
- Instead of favoring one type of development over another, the Council should ask developers what type of zoning is in short supply in Mesa.
- Zip Code 85207, which includes the Las Sendas community, is the only Zip Code in Maricopa County in which property values have increased during the recent economic downturn in the economy.
- Drive-through facilities should be limited

Mayor Hawker stated that the following individuals submitted speaker cards in opposition to the Parcel 51 development, but did not wish to address the Council:

Rich Herring	7415 East Orion Circle
Margaret McFate	8134 East Vista Canyon Street

Mayor Hawker stated that the following individuals submitted speaker cards in support of the Parcel 51 development:

Jan Beals	3765 North Barron
John Krassaty	3758 North Desert Oasis Circle
Brent Beals	3765 North Barron

Vice Mayor Walters read the names and comments of 89 additional citizens who submitted speaker cards either in support of or opposition to this item.

Mr. Anderson responded to a number of comments offered by the speakers. He stated the opinion that he did not see any inconsistencies between the Development Agreement, the Project Narrative or the zoning and suggested that "some mud was being thrown at the wall to see what sticks." Mr. Anderson explained that relative to public safety concerns, staff and the Planning & Zoning (P&Z) Board extensively reviewed the issue and determined that the development would not pose any traffic problems. He also commented that it was important to note that no one is trying to hurt the Las Sendas community, devalue the property in the neighborhoods, or bring crime to the area. Mr. Anderson added that Las Sendas is "one of the gems" of the City of Mesa.

There being no further citizens present wishing to speak on this issue, Mayor Hawker declared the public hearing closed. He also expressed appreciation to the Las Sendas residents for their courtesy and patience during the public hearing.

Planning Director John Wesley provided a brief overview of this item and noted that the site is currently designated for Business Park in the Las Sendas Development Master Plan and the City of Mesa's General Plan. He explained that the applicant proposes to change the land use designation to include not only Business Park, but also Medium Density Residential and Neighborhood Commercial. Mr. Wesley stated that in order for staff to consider such a change, it was important to consider how the site could be developed to maintain an overall Business Park approach to provide a high-quality job base for this northeast area of Mesa. He added that the applicant has also requested to rezone the site, which is currently zoned R1-90 DMP, to R-2, C-2 and PEP, along with a P.A.D. overlay and Council Use Permit on portions of the property.

Mr. Wesley further indicated that in reviewing the zoning and Site Plan with the project, staff has worked to ensure that there was a unique and high quality development that could be integrated with the Las Sendas community. He said that the proposed Site Plan includes a mix of uses including commercial, residential, hotel and office and a well-designed pedestrian circulation system throughout the site to link the surrounding neighborhood with the development. He added that staff supports the increased height of the office buildings in the area, both for the need to create the number of high-wage jobs that are important for the area and also to provide "a unique sense of place."

City Attorney Debbie Spinner reported that the purpose of the Development Agreement is to achieve the goals that were established by staff and the Council, which were to create a mix of uses for the project. She explained that if and when Parcel 51 is developed, it would be accomplished in a manner that is consistent with those goals. Ms. Spinner stated that the Development Agreement also includes certain prohibited uses that otherwise, under the zoning the applicant is requesting, would be permitted, but the applicant has agreed would not be allowed. She further reviewed the phasing of the development relative to the residential and commercial components.

Vice Mayor Walters distributed copies of a document entitled "Alternative Clauses, Parcel 51 DA", consisting of proposed changes to the Development Agreement. (See Attachment 1.) She briefly reviewed the alternative clauses relative to Sections 2.10, 4.4, 8.2.1 and 8.4.

In response to a question from Mayor Hawker, Ms. Spinner clarified that if the Council wanted to make changes to the Development Agreement tonight, including those proposed by Vice Mayor Walters, it would be necessary to clearly state for the record what those changes are.

In response to a question from Mayor Hawker, Mr. Anderson clarified that he just received the proposed changes to the Development Agreement distributed by Vice Mayor Walters and is currently in the process of reviewing them. He stated that relative to the changes to Sections 2.10 and 8.2, although he is generally comfortable with the proposed language, he would respectfully request Council input in this regard. Mr. Anderson stated that he is agreeable with the clarifying language in Sections 4.4 and 8.4 (which adds language relative to landscaping/temporary landscaping).

Councilmember Rawles commented that with regard to Section 8.2.1, he would be upset if the developer took advantage of the fact that the language would allow the construction of a three-story building that may not have the same kind of Class A quality as a four-story building. He added that he would not want the project to lose such quality if the developer built two three-story buildings and two four-story buildings rather than four four-story buildings.

Vice Mayor Walters concurred with Councilmember Rawles regarding the quality of the buildings. She explained that her concern in modifying the language in Section 8.2.1 was that only four-story buildings would provide "a level look" and suggested that a variety of heights might be more visually appealing.

In response to a question from Councilmember Somers relative to Section 2.10, Mr. Anderson clarified that currently, the footprint for Buildings A1, 2, 3 and 4 is 15,000 square feet. He stated that Chris Arnold, of JCA Holdings, instructed him that if the Council would like to include revised Section 2.10 in the Development Agreement and that the minimum amount of Class A office space remain at 240,000 square feet, he would be willing to make that commitment to the Council.

Extensive discussion ensued relative to the ability to maintain a minimum of 240,000 square feet of Class A office space if the developer was given the flexibility to build three-story buildings; that it was the opinion of Mr. Berkus that the office buildings would be four-stories, there would be little vacant office space and the development would be very successful based on the high quality environment, particularly the hotel and shops; that if two four-story buildings and two three-story buildings were built on the site, for instance, the 240,000 square feet of Class A office space could be maintained if the building footprint was increased; that staff and

the developer would work to determine the type of temporary landscaping that would be used in order to prevent erosion in the adjacent wash; (as referenced in revised Section 8.4); and that the Development Agreement would terminate at the end of the process, which is either 20 years or completion of the project.

In response to a question from Councilmember Truitt, Ms. Spinner clarified that if the developer came back at a later time for a Site Plan modification, the case would be presented to the P&Z Board for approval. She explained that if a citizen objected to the Board's decision, the matter could be appealed to the Council.

Ms. Spinner further advised that before the Council determines which, if any, of the alternative clauses they might wish to approve, her staff also drafted two amendments (Section 3 and Section 4.2) to the Development Agreement based on comments made by the LS51 Committee. She stated that if the Council were inclined to approve these amendments as well, it would be necessary for her to read them into the record.

An extensive legal analysis occurred relative to Section 4.2, "Vesting."

Ms. Spinner read into the record the proposed amendment to Section 4.2 "Vesting" as follows: "Provided that Owner is in compliance with all terms and conditions of this DA, the zoning shall be deemed contractually vested as of **the effective date of this DA and for a period of five (5) years thereafter**. The City agrees to include on the ballot as soon as practicable any valid referendum filed regarding the zoning."

Mr. Anderson confirmed that the developer is willing to accept this new language.

Ms Spinner read into the record the proposed amendment to Section 3 "Term" as follows:

"The term of this DA shall commence on the date and at the time this DA **and the Zoning** is approved by the City Council, and shall automatically terminate upon the earlier of: **(i.) a Council vote that does not approve the Zoning requested by the Owner in case Z07-74 and contemplated by this DA**, (ii) completion of the Project, (iii) termination by the mutual consent of the Owner and City pursuant to this DA, (iv) twenty (20) years from the approval date of this DA. In the event that the citizens of Mesa, through a validly filed referendum, disapprove the City Council's actions with respect to the Property, this DA will automatically terminate without the need for action by either party."

17a. Take action on the following resolution:

Approving and authorizing the City Manager to execute a Development Agreement between the City of Mesa and JCA Holdings LLC (Parcel 51 at Las Sendas) for the development of a mixture of residential, retail, resort and office uses – Resolution No. 9264.

It was moved by Councilmember Truitt, seconded by Councilmember Rawles, that the Development Agreement be approved, subject to the changes read into the record by the City Attorney (Section 3 and Section 4.2) and the changes proposed by Vice Mayor Walters (Section 2.10, Section 4.4, Section 8.2.1 and Section 8.4) and that Resolution No. 9264 be adopted.

Mr. Anderson stated that the landowner fully agrees to the changes proposed by Vice Mayor Walters.

Councilmember Somers expressed opposition to the motion, but stated that he is pleased with the changes to the Development Agreement proposed by Vice Mayor Walters. He noted that the landowner is not a developer and commented that he hoped the proposed development “works out” and that the landowner can “deliver on what has been promised” in the Development Agreement.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Rawles-Truitt-Walters-Whalen
NAYS - Somers

Mayor Hawker declared the motion carried by majority vote and Resolution No. 9264 adopted.

17b. Public Hearing on Minor General Plan Amendment **GPMinor07-11 (District 5)**

(See above item.)

17c. Take action on the following resolution:

GPMinor07-11 (District 5) Parcel 51 at Las Sendas. The 7100 and 7200 blocks of East McDowell Road (north side). Located east of Power Road on the north side of McDowell Road. General Plan Minor Amendment to change the General Plan Land Use Map from Business Park to Medium Density Residential 6-10 du/acre (20± ac) and Neighborhood Commercial (9± ac). This request will allow the development of a mixture of multi-family, retail, resort, and office uses within the Las Sendas Development Master Plan. JCA Holdings, LLC, Chris Arnold, owner; Reese Anderson, Pew and Lake, PLC, applicant; Julie S. Rayburn, RCC Design Group, LLC; engineer – Resolution No. 9265. ***(Held neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.) COMPANION CASE Z07-74. Legal protest filed, ¾ Vote required.***

P&Z Recommendation: Adoption. (Vote: 7-0).

It was moved by Councilmember Rawles, seconded by Councilmember Jones, that Resolution No. 9265 be adopted.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Rawles-Truitt-Walters-Whalen
NAYS - Somers

Mayor Hawker declared the motion carried by majority vote and Resolution No. 9265 adopted.

17d. Take action on the following ordinance introduced at a prior Council meeting:

Z07-74 (District 5) Parcel 51 at Las Sendas. The 7100 and 7200 blocks of East McDowell Road (north side). Located east of Power Road on the north side of McDowell Road (51± ac). Rezone from R1-90 DMP to R-2 (20± ac), C-2 (9± ac) and PEP (21± ac), and PEP with a Council Use Permit (2± ac), all part of a P.A.D. overlay and a modification to the Las Sendas Development Master Plan. This request will allow the development of a mixture of multi-family, retail, resort, and office uses. JCA Holdings, LLC, Chris Arnold, owner; Reese Anderson, Pew and Lake, PLC, applicant; Julie S. Rayburn, RCC Design Group, LLC; engineer – Ordinance No. 4849. (***Held neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.***) **COMPANION CASE GPMInor07-11. Legal protest filed, ¾ Vote required.**

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

It was moved by Councilmember Truitt, seconded by Councilmember Whalen, that Ordinance No. 4849 be adopted.

Councilmember Truitt commented that what the Council and staff have attempted to do with this project is create “a village center” for the Las Sendas community and provide a unique development that draws individuals to the area.

Vice Mayor Walters expressed appreciation to the Las Sendas Homeowners Association and the LS51 Committee for their efforts and hard work in this regard.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Jones-Rawles-Truitt-Walters-Whalen
NAYS - Somers

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4849 adopted.

18. Take action on the following subdivision plat:

*18a. "SUNLAND SPRINGS VILLAGE UNIT SEVEN PHASE THREE" (**District 6**) The 2700 block of South Cooperwood (east and west sides) located north and west of Guadalupe Road and Meridian Drive. 10 R1-6 DMP single residential lots (3.21 ac.) Transnation Title Insurance Company, Henry D. Ledema, assistant secretary, trustee; Robert J. Blake, Clouse Engineering, Inc., engineer.

19. Items from citizens present.

Gregory and Dianne Woods, 1426 West Pepper Place, thanked the departing Councilmembers for their service and dedication to the City of Mesa. They also wished them well in their future endeavors.

20. Adjournment.

Without objection, the meeting adjourned at 11:05 p.m.

KENO HAWKER, MAYOR

ATTEST:

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 19th day of May 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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(attachments – 4)