

COUNCIL MINUTES

January 3, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on January 3, 2005 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones
Debbie Spinner

Invocation by Councilmember Jones.

Pledge of Allegiance was led by Mayor Hawker.

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.

Mayor's State of the City Address.

Mayor Hawker recognized his wife, Mary Jo Vecchiarelli, and his son, Ryan Hawker, who were present in the audience. A videotaped presentation was aired of the State of the City Address as follows:

"Hello. I'm Keno Hawker. Thank you for joining me for the 2005 State of the City address. As a resident of Mesa, I know you have felt the effects that rapid growth has had on our community. You've probably also heard about the financial challenges we now face. I'd like to take the next few minutes to touch on a few key issues.

When I began serving as your Councilmember in 1986, Mesa's population was 271,000. The City's population is now estimated to be over 450,000. Mesa has grown to be the 40th-largest city in the nation, bigger than Oakland, Atlanta and Miami. But with rapid growth comes great challenges.

Your Councilmembers and I are working together to meet these challenges and plan for a vibrant future.

Representing District 1, Vice Mayor Claudia Walters serves as Chair of the Transportation Committee and is a member of the Finance and Police Committees. Claudia has been very involved in efforts to improve neighborhoods. She also has worked to increase elderly mobility and serves on the National League of Cities' Community and Economic Development Steering Committee. Claudia's work on national, state and local issues benefits from her ability to understand complex issues and articulate her position as she represents the City of Mesa.

District 2 Councilmember Mike Whalen serves as the Chair of the Fire Committee and is a member of the General Development and Transportation Committees. Having served as an officer and assistant Chief of the Mesa Police Department for 28 years, Mike's expertise in the area of law enforcement has been invaluable to the Council. He also served as Arizona's only representative on the National League of Cities' Homeland Security Working Group.

District 3 Councilmember Tom Rawles serves as Chair of the Finance Committee and is a member of the Police and Utility Committees. The City benefits from Tom's experience as an attorney and his ability to articulate his views concerning the appropriate role of government.

District 4 Councilmember Kyle Jones serves as Chair of the Police Committee and as a member of the General Development and Transportation Committees. Additionally, Kyle serves on the National League of Cities' Public Safety and Crime Prevention Policy Committee and chairs Mesa's Financing the Future citizen committee. His dedication to successful planning efforts and willingness to address difficult issues are a tremendous asset to the City.

District 5 Councilmember Rex Griswold serves as Chair of the General Development Committee and as a member of the Fire and Utility Committees. Additionally, Rex chairs a citizen ad hoc committee charged with examining the City's role in redevelopment. Rex is committed to making City processes more business-friendly.

Councilmember Janie Thom represents District 6. Janie chairs the Utility Committee and serves as a member of the Finance and Fire Committees.

District 6 is one of Mesa's fastest growing districts. This area will benefit significantly from infrastructure improvements for the Williams Gateway regional job center, as well as the recent extension of the countywide transportation tax.

The Council and I, along with the help of many dedicated residents and City staff, have made great strides over the past few years.

We have two of the finest, fully accredited Police and Fire departments in the nation and an exceptional emergency management program.

Additionally, Mesa's Center Against Family Violence continues to serve as a national model for violence prevention and compassionate care for victims.

Last year, Mesa also opened a state-of-the-art Transportation Management Center, which is the hub of Mesa's Intelligent Transportation System. The Intelligent Transportation System takes advantage of

the latest technology to improve traffic flow throughout the City. There are only a few communities in the region that have implemented this forward-thinking technology.

And, despite explosive growth throughout the community, Mesa's Municipal Court continues to excel and keep pace with its ever-increasing caseload.

But it's not just exceptional employees that continue to move Mesa forward, it's the involvement of dedicated residents.

Since I began my first term as Mayor in 2000, we have brought together hundreds of residents, business leaders, educators and elected officials to update the City's Master Plan. The update includes the City's general land use plan, which identifies and preserves job centers throughout the City. This land use plan, approved by voters in 2002, is a key element in my effort to move Mesa from a bedroom community to a boardroom community. To be sustainable at build-out, we must improve our job-to-housing ratio.

Another important achievement in the effort to attract high quality jobs for Mesa residents was the successful passage of Proposition 400 last November. The freeway, arterial street and mass transit improvements funded by this plan will continue to make the entire region more attractive to business.

As Chair of the Maricopa Association of Governments Regional Council, I am particularly proud of the regional cooperation that made the passage of Prop. 400 possible. Also known as MAG, the Maricopa Association of Governments is a leadership Council that serves as the primary regional agency for the metropolitan Phoenix area. By working together, cities were able to include local transportation projects with regional significance. From intersection improvements and new HOV lanes, to the construction of a new Williams Gateway Freeway, which will support what is projected to be the 4th-largest job center in the Valley, residents can be sure that Mesa will receive its fair share of funding in a timely manner. In fact, the Maricopa Association of Governments already has launched a \$500,000 study to determine the alignment of the Williams Gateway Freeway and I have met with key landholders in the area, including the GM Proving Ground.

As I've said many times before, I believe it is critical that we protect the Williams Gateway area from residential encroachment. We have made great strides in our quest to transform it into a leading regional employment center. In fact, infrastructure improvements have spurred new commercial and industrial growth, and ASU East has been designated as a polytechnic campus that will produce an educated workforce for locally available jobs.

And tonight, I am pleased to announce we also are working with Cessna, who is looking at the possibility of locating at Williams Gateway.

Cessna executives have indicated that they're interested in Mesa and Williams Gateway because of its available land, superior infrastructure, skilled workforce, great weather and dedication to compatible land uses around the airport.

Clearly, protection of the airport from residential encroachment is a key factor in the success of the job center. Other leading employers, such as Boeing, also have appealed to this Council to protect the airport, citing examples when good aviation-related jobs left other communities because their facilities were choked off by rooftops.

While it is widely known that Mesa has superior schools, parks and neighborhoods, our vision must not only be to make Mesa an even better place to live, but to work in, also. Mesa must be known not just for a quality lifestyle, but quality jobs.

Ironically, Council is being asked to consider a zoning case tonight that will allow homes to be built south of the power lines within an over-flight zone that is expected to increase as Williams Gateway becomes more successful. I will not support this measure, as it would amend the employment-use plan already approved by voters and could dampen future efforts to attract quality jobs for Mesa residents.

Although I recognize that the immediate market demand is for residential, to be successful at build-out, this land must produce jobs, not rooftops. By adopting our Land Use Master Plan, Mesa residents have already recognized that we must be visionary in our planning efforts, not shortsighted.

Just as we have partnered with surrounding communities to plan the future of Williams Gateway, I also have asked the City of Apache Junction to allow Mesa to participate in its ongoing planning process for several hundred acres of State Trust Land immediately east of Mesa's border.

Only by working together can we begin to address the demand future residents will place on our existing infrastructure and resources as those residents work, shop, recreate and travel throughout the greater community.

And, as President of the Arizona Municipal Water Users Association, I remain concerned with the development of new residential communities that lack a sufficient water supply. Mesa has taken a hard-line approach to water resources in the past, and we have an impressive water portfolio to show for it. In fact, as illustrated by the historic water rights agreement we reached with the Gila River Indian Community last year, we have made it a priority to secure the water our community will need for decades to come. But what burden will new developments outside of Mesa place on that water supply? We must work together as a region and as a state to insist that an assured water supply is available throughout Arizona before new development takes place. We must not turn a blind eye to the pressing and relentless demand new developments place on our limited water resources.

Another area that demands a regional approach is retail incentives. I have been working with East Valley Mayors to stem the tide of rising retail incentives. We recognize there must be a better way to lure important sales tax revenue into our respective communities, and we are working to find it. Whether through revenue sharing zones along common borders or through other innovative approaches, we must work together to solve this difficult problem.

This year, Mesa also will continue its long-standing tradition of encouraging resident participation in community improvement and governance. With the recent Council approval of Reed Park as the City's second neighborhood opportunity zone, residents will again be empowered to revitalize their community and bolster pride in their neighborhoods.

Other work we have engaged in to revitalize Mesa's aging neighborhoods and commerce centers includes developing the City's first infill plan and designating the Fiesta Mall quadrant as a retail revitalization zone. The success of these efforts will depend upon the willingness of private industry and residents to work in tandem with the City to re-energize the area.

And Mesa residents continue to show that they do care about their community.

For many decades now, Mesans have been generously volunteering their time to serve on the City's 19 citizen advisory boards and committees. From Planning and Zoning to Library matters, these citizens have the important task of thoroughly examining issues and providing recommendations to Council. These residents aren't coming to the City looking for answers--they're offering solutions--and we all benefit from their service.

Over the past four years, the City Council has increased diversity on the City's boards and committees, as we believe it is important for members to reflect our diverse community. If you are interested in serving on a board or committee, you can find out more by logging on to the City's Web site.

In addition to the growing Williams Gateway employment center I talked about earlier, there's another area that's experiencing some exciting improvements---Downtown.

The \$95 million Mesa Arts Center, approved by voters in the 1998 Quality of Life sales tax, will officially open this fall. This state-of-the-art facility features four theatres, five galleries, and 14 studios and classrooms. Along with first-rate performances that will attract audiences from throughout the region, the facility will be a great way to showcase Mesa as we host the League of Arizona Cities and Towns' conference this year. The League conference will be attended by Mayors and Councilmembers from throughout the state.

In addition to the new Arts Center, the old downtown Bank One and Paul Sale buildings are currently undergoing renovation by private developers, and Marriott purchased and renovated the Sheraton last year. We also look forward to expanding Mesa Community College's presence downtown. With student numbers continuing to grow, this public-private partnership could greatly benefit area businesses, improve our workforce development, and bring new energy into downtown. In fact, local merchants could eventually see as many as 10,000 students downtown.

Clearly, with the recent approval of the City's land use, economic development, parks, and transportation master plans, great strides have been made. But how will Mesa continue to offer exceptional Police, Fire and other City services while working to achieve the vision outlined in these plans?

To address this issue, I have appointed a 13-member citizen finance committee. Chaired by District 4 Councilmember Kyle Jones, the Mesa 2025: Financing the Future Committee is charged with finding a balance between current revenue streams and expenditures to ensure we have a sustainable community at build-out.

This committee spent the last 12 months examining every department, service and function in the City. In the coming months, they will assess Mesa's ability to sustain the high-quality services we offer residents as we approach our projected build-out population of approximately 650,000 residents.

As you can imagine, this is no small task. With no City property tax, Mesa relies on sales tax and utility revenues to help fund City services. While we have consistently returned profits to our residents, who are our shareholders, we also have maintained our rating as one of the most affordable cities in the Valley.

There's never been a more important time to get involved in your community, as these issues are likely to shape Mesa for generations to come. I urge you to watch the finance committee meetings, which

are broadcast live each month on Mesa Channel 11. A complete schedule of meetings can be found on the City's web site.

Now is also a great time to consider volunteering. The City of Mesa and the many outstanding nonprofit organizations that call Mesa home offer a variety of truly rewarding volunteer opportunities.

As I said before, there are many great things happening in Mesa, but we also have many challenges before us. Although the Superbowl is fast approaching, we're not looking for armchair quarterbacks. Instead, I urge every resident to work with us to find practical and innovative solutions for a better tomorrow.

You know, a young entrepreneur by the name of Henry Ford once said that coming together is a beginning, keeping together is progress, and working together is success.

I'd like to thank you for being a part of this great city and for your continued dedication to the success of our community."

1. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified with an asterisk (*) were approved with one Council action.

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

Carried unanimously.

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

Minutes from the December 16 and 20, 2004 Council meetings.

3. Conduct a public hearing and consider the following proposed annexations.

- a. **A04-08** Located on the northwest corner of South Mountain Road and East Mesquite Street. (14.86± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of the northwest corner of South Mountain Road and East Mesquite Street.

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

- b. **A04-15** Annexing the west and north of the northwest corner of Main Street and Power Road. (6.3± acres). Initiated by the property owners.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of the west and north of the northwest corner of Main Street and Power Road.

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

- c. **A04-16** Annexing the west and north of the northwest corner of Main Street and Power Road. (6.7± acres). Initiated by the property owners.

Mayor Hawker announced that this is the time and place to conduct a public hearing regarding the proposed annexation of the west and north of the northwest corner of Main Street and Power Road.

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

- d. **A04-17** Annexing the southwest corner of Ellsworth Road and east Florian Avenue (3.37± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place to conduct a public hearing regarding the proposed annexation of the southwest corner of Ellsworth Road and east Florian Avenue.

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

4. Consider the following liquor license applications:

- *a. TIMOTHY LEE HOLEMAN, AGENT

New Beer & Wine Store License for Diamond Shamrock #1659, 9115 E. Guadalupe Road. This is new construction. No previous liquor licenses at this location. District #6.

- *b. CHARLES ALBERT GROTHE, ETAL

New Restaurant License for Korean BBQ, 2711 S. Alma School Road, Suite A-13. This is an existing business. No previous liquor licenses at this location. District #3.

5. Consider the following contracts:

- *a. Three automated side loading (ASL) refuse trucks for the Solid Waste Division. All three trucks are replacement units to the fleet.

The Purchasing Division recommends accepting the low bid by Cunningham Commercial Vehicles at \$614,091.09 including desired options, extended warranties and applicable sales tax.

- *b. Four-month supply contract for automotive lubricant and oil products as requested by Fleet Support Services.

The Purchasing Division recommends authorizing a four-month contract from the State of Arizona contract with Chevron USA for purchases estimated at \$34,020.72.

- *c. Three replacement trucks for the Fire Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Courtesy Chevrolet at \$75,045.00.

- d. County Line Reservoir, No. 3, City of Mesa Project No. 01-569-001.

This project follows the water master plan and will construct a new 500,000-gallon reservoir at the City's existing County Line Reservoir site at 1855 N. 93rd Street.

Recommend award to low bidder, Currier Construction, Inc., in the amount of \$1,249,875.00 plus an additional \$124,987.00 (10% allowance for change orders) for a total award of \$1,374,862.00.

Mayor Hawker declared potential conflicts of interest on items 5d, 5e and 5f and said he would refrain from discussion/consideration of these agenda items. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Thom, seconded by Councilmember Griswold, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

- e. Water Line from Falcon No. 2 to Goldmar Irrigation Structure, City of Mesa Project No. 02-212-001.

This project will install a new water line to convey water from existing Falcon Well No. 2 to the existing Goldmar irrigation structure located at the southwest corner of McDowell and Greenfield Roads.

Recommend award to low bidder, S.J.L. Construction of Arizona, LLC, in the amount of \$479,809.00 plus an additional \$47,980.00 (10% allowance for change orders) for a total award of \$527,789.00.

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

- f. Chilled Water Line, Main Street to 1st Street, City of Mesa Project No. 01-901-001.

This project will install a chilled water line that will serve the Information Services Building, Mesa City Plaza, and Municipal Building, in addition to future City buildings. The project includes approximately 1,500 feet of 18-inch pipe and 1,600 feet of 6-inch pipe.

Recommend award to low bidder, ConWest Construction, in the amount of \$679,609.56 plus an additional \$67,960.00 (10% allowance for change orders) for a total award of \$747,569.56.

It was moved by Councilmember Thom, seconded by Councilmember Whalen, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Thom-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

6. Consider the following resolutions:

- *a. Extinguishing portions of a Drainage and Public Utility Easement on lots 5 and 6 of Mesquite Canyon Plaza located at the southwest corner of Guadalupe and Ellsworth Roads – Resolution No. 8387.

This area is being replatted as Augusta Ranch Professional Village and portions of the easements are no longer required.
- *b. Extinguishing a Public Utility Easement on lot 57 of Mesa Commerce Center located at 4521 East Jenson Street – Resolution No. 8388.

This easement is no longer required.
- *c. Authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the East Valley Institute of Technology for funding for the Safe Schools Program – Resolution No. 8389.
- *d. Authorizing the City Manager to execute the third amendment to the Site 21 Disposition and Development Agreement approving modifications to Design Review Case No. DR00-0011TC – Resolution No. 8390.

- *e. Extinguishing a portion of a public utilities easement on Lot 60 of Bradley Country Estates at 3820 East Forge Avenue – Resolution No. 8391.

7. Review and consider adoption of the following resolution. (CONTINUED FROM THE NOVEMBER 15, 2004 REGULAR COUNCIL MEETING).

- a. **GPMajor 04-03 (District 6)** Consider a resolution, as amended at the November 15, 2004 City Council Meeting, to amend the General Plan land use map from Business Park to Medium Density Residential 4-6 (4-6 du/ac) for approximately 75 acres on the west side of the 2400-2500 blocks of South Signal Butte Road. Warren and Lela Steffey owners; Stephen C. Earl, Earl, Curley and Lagarde, applicant.

P&Z Recommendation: Denial. (Vote: 5-0-2; Boardmembers Carpenter and Mizner absent).

In response to a question from Mayor Hawker, City Attorney Debbie Spinner clarified that in considering a Major General Plan Amendment, a two-thirds vote (5 affirmative votes) is required for passage of the Resolution.

Stephen Earl, 3101 North Central Avenue, Phoenix, an attorney representing the applicant, provided a brief historical overview of the applicant's efforts to obtain a General Plan Land Use Amendment, which initially encompassed 282 acres and was subsequently reduced to 75 acres (located north of the northwest corner of Elliott and Signal Butte Roads). He explained that although neither the Steffey family nor Engle Homes has any desire to negatively impact Williams Gateway Airport or affect the employment core surrounding the airport, in his opinion, the most legitimate use for the subject property is residential and not commercial or industrial development.

Mr. Earl advised that at the November 15, 2004 Regular Council meeting when this item was initially presented for consideration, members of the Council raised questions regarding the placement of housing across the street from a Salt River Project (SRP) substation. He explained that he has located a residential community in Tempe at the intersection of Elliott and Kyrene Roads in which a similar situation occurred and noted that Tempe worked with SRP to beautify and buffer the substation with landscaping, higher walls and various modifications to the substation's entrance in an effort to visually obscure the substation from the residents' view. Mr. Earl stated that he offered this illustration only to demonstrate that similar buffering could be accomplished on the subject property as part of a zoning case.

Mr. Earl concluded his remarks by stating that the proposed amendment is not a major deviation from the General Plan, that it would complement, and not negatively impact Williams Gateway and the employment core surrounding the airport, and urged the Council to adopt the Resolution.

Reese Anderson, 400 E. Van Buren, Phoenix, an attorney representing Williams Gateway Airport Authority, expressed opposition to the Major General Plan Amendment. He highlighted the following facts as the basis for his opposition: that airport operations have increased dramatically from 2001 to 2004 and it is anticipated that they would continue to increase over the coming years; that the current "fly friendly" procedure directs aircraft immediately over the subject property; that the decrease in noise complaints is directly related to the implementation

of the "fly friendly" procedures, and placing homes under this area would only make noise complaints increase again; that the Federal Aviation Administration (FAA) dictates departure paths and not the applicant or Williams Gateway; that when the new RNAV (Area Navigation) Procedures to depart Williams Gateway are instituted, a new FAA tool for the pilot's toolbox could provide a two to three percent change in the flight path if a pilot elected to use that departure path; and that the proposal does not constitute an overall improvement to the General Plan.

Mayor Hawker declared the public hearing closed.

Planning Director John Wesley stated that staff, as well as the Planning and Zoning Board, continue to recommend denial of the case. He explained that the General Plan clearly establishes the power lines as the boundary between residential and Business Park uses for development in the Williams Gateway area. Mr. Wesley advised that if the Council approved this case, there would be nothing to distinguish these 75 acres from the property to the south or the west and added that it would be difficult for the City to recommend denial of other cases in the area. He also briefly outlined various criteria listed in the General Plan that must be met in order to approve a Major General Plan Amendment. Mr. Wesley added that the Joint Master Planning Committee conducted an extensive review of the site and determined that it would be an ideal location for industrial uses because of the infrastructure, the location of Williams Gateway, and the transportation system in the area.

Councilmember Rawles stated that no one would be forced by the applicant to live under the flight path unless they voluntarily chose to do so. He commented that the proposed site is a substantial distance away from the job core center and added that he sees no reason to interfere with the landowners' right to do with their property as they please.

It was moved by Councilmember Rawles that Major General Plan Amendment GPMajor 04-03 be approved.

Vice Mayor Walters stated that for purposes of discussion, she would second the motion.

Mayor Hawker said that a major objective of the City has been to change Mesa's image from a bedroom community to a boardroom community by establishing employment centers, especially around Williams Gateway. He commented that if Mesa intends to develop the airport into the fourth largest job center in Arizona, with one of the key components being aviation-related uses, the City would be very shortsighted if it gave up a portion of the area for residential development. He also reiterated Mr. Wesley's comments that if this case were approved, it would be difficult for the City to recommend denial of the properties to the south and west. Mayor Hawker encouraged his fellow Councilmembers to vote in opposition to the motion to ensure that the City achieves its housing-to-job ratio at build-out and not to forsake a short-term housing development for a long-term employment center.

Councilmember Thom expressed opposition to the motion and commented that the City of Mesa would have no way of requiring SRP to implement various improvements at the substation adjacent to this property. She also noted that the applicant does own other property in the area that would be appropriate for residential development, but stated that in her opinion, the subject property would be more appropriate for commercial development or Business Park uses.

Councilmember Griswold voiced opposition to the motion and stated that Sky Harbor Airport “has been grabbing our airspace above our City and boxing in Williams Gateway Airport.” He stressed the importance of Williams Gateway obtaining a corridor that would enable its planes to fly and climb over the community as quickly as possible.

Vice Mayor Walters commented that she has struggled with this case due in part because she agrees with the applicant that Mesa’s current zoning designation on the property is probably incorrect. She stated that although she is opposed to the motion, she is committed to work with the Steffeyes to determine an appropriate land use designation for the property. Vice Mayor Walters added that the City of Mesa has worked very hard to support Williams Gateway and has also invested a substantial amount of funds into that area of the community to ensure the airport’s success.

Councilmember Whalen expressed opposition to the case and said he is not willing at this time to sacrifice the long-term plans for Williams Gateway merely to bring more residential development into the City. He commented that he would endeavor to work with the other Councilmembers to find the most appropriate land use for the property, including perhaps various recreational amenities that are currently lacking in that area of the community.

Councilmember Jones voiced opposition to the motion and stated that in his opinion, aircraft overflight in this area of the community would continue to be an ongoing issue for the foreseeable future.

Upon tabulation of votes, it showed:

AYES - Rawles
NAYS - Hawker-Griswold-Jones-Thom-Walters-Whalen

Mayor Hawker declared the motion failed.

8. Consider the following ordinances:

- *a. Relating to public health and safety, amending certain provisions in the amendments to the International Fire Code; amending Title 7, Chapter 2 of the Mesa City Code to add a limited exception to the requirement for fire sprinklers in Group B occupancies – Ordinance No. 4331.
- *b. Amending Section 4-2-1(S) of Chapter 2 (Mesa Building Code) of Title 4 of the Mesa City Code to add a limited exception to the requirement for sprinklers in Group B occupancies – Ordinance No. 4332.
- c. Amending Title 5, Chapter 9 of the Mesa City Code relating to regulating the sale of alcoholic beverages – Ordinance No. 4338.

City Attorney Debbie Spinner reported that when the liquor license application for the Mesa Art Center came forward, staff reviewed the City Code and determined that Mesa’s liquor regulations were not in compliance with the State statutes. She indicated that State statutes take precedence over the City Code. Ms. Spinner commented that case law exists which specifically states that in passing the statutes regarding the State liquor license, the State

intended to “preempt the field.” She explained that this means that no city or town within Arizona can pass codes in conflict with State statutes, and added that the proposed amendment would resolve the conflict in the City Code with regards to the Arizona Liquor Law (Title 4).

Mayor Hawker stated that Councilmember Thom requested that this item be removed from the consent agenda and inquired if she would like to comment on the matter.

Councilmember Thom voiced opposition to this item and stated that she disagreed with the City Attorney’s opinion that the City Code is in conflict with various licensing provisions of the State Liquor Code. She commented that the Code has been “on the books” for many years and never challenged, and stated that she sees no reason to change the Code now. Councilmember Thom added that in her opinion, serving liquor at the Mesa Art Center is not an absolute necessity and that there are other establishments throughout the City where an individual could purchase an alcoholic drink.

In response to a question from Mayor Hawker, Ms. Spinner clarified that at the December 20, 2004 Regular Council meeting, the Council approved forwarding the Mesa Art Center’s government liquor license application to the State Liquor Board. She explained that the Council is not addressing any issues dealing with the Mesa Art Center tonight, but simply bringing the City Code into compliance with the State statute.

It was moved by Councilmember Rawles, seconded by Mayor Hawker, that Ordinance No. 4338 be approved.

Vice Mayor Walters commented that when she took the oath of office as a Councilmember, she swore to uphold the laws of the State of Arizona and the United States Constitution. She stated that although she may have a different preference with regard to this item, she would, however, support the motion to ensure that the City is in compliance with State law.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Rawles-Walters-Whalen
NAYS - Thom

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4338 adopted.

d. Amending Title 6, Chapter 15, Section 6 (B) of the Mesa City Code pertaining to alarm user permit requirements – Ordinance No. 4339.

Councilmembers Jones and Whalen declared potential conflicts of interest and said they would refrain from discussion/consideration of this agenda item.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that Ordinance No. 4339 be approved.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Rawles-Thom-Walters
NAYS - None
ABSTAIN - Jones-Whalen

Mayor Hawker declared the motion carried unanimously by those voting and Ordinance No. 4339 adopted.

- *e. **A04-12** Located on the northeast corners of Ray and South Mountain Roads (73.54 ± acres). Initiated by the property owner Crisko, LLC (John Poulsen) – Ordinance No. 4333.

8.1. Consider the following recommendation from the Police Committee:

- a. Proceeding with a Request for Proposals for the Photo Safety Services Contract.

Police Chief Dennis Donna addressed the Council and provided a brief overview of this agenda item. He reported that the contract with the current vendor, Affiliated Computer Services (ACS), expires in April and that in order to facilitate the changeover pending approval of a new contract, staff is recommending that the current contract be extended for six months. Chief Donna stated that the five-year contract, if approved, would include alternate proposals that would enable staff to evaluate new technology (digital photography); expand the number of monitored intersections from 17 to 30; enhance the program to include “speed on green;” provide four photo safety speed vans; and change the pricing structure to a flat fee versus per citation.

Councilmember Jones, as Chairman of the Police Committee, commented that during the Committee’s consideration of this issue, the members discussed the fact that although the flat fee contract would not necessarily eliminate the Photo Safety Enforcement Program’s monthly deficit, it would allow the Department to accurately predict its monthly expenses and refocus on safety concerns. He added that staff has included various “add-alternates” as components of the Request for Proposals (RFP) and said that the Council would make the ultimate determination regarding which items would best enhance the program’s overall effectiveness.

In response to a series of questions from Councilmember Whalen, Chief Donna stated that photo safety is one aspect of the Department’s comprehensive traffic safety program which has aided in reducing accidents, especially at intersections. He noted that the photo safety radar vans are a more cost effective method by which to address various non-intersection related traffic issues as compared to, for example, placing a patrol officer at the same location and preventing him from responding to more urgent calls. Chief Donna added that the “add-alternate” components of the RFP would be brought back to the Council so that they could review the vendors’ proposals with respect to the cost of the items and their impact on the Photo Safety Program.

Marilynn Wennerstrom, 1112 N. Center Street, addressed the Council and requested additional information regarding this agenda item.

Chief Donna responded to a series of questions posed by Ms. Wennerstrom regarding the Photo Safety Program and the RFP process.

Vice Mayor Walters stated that when this matter was presented to the Police Committee, the Committeemembers voiced concerns regarding extending the new photo safety contract for an additional five-year period, which would result in the City being locked into existing technology and unable to incorporate new technological advances into the system. She explained that at that time, staff had indicated that it would take two years to accomplish maximum build-out of all of the monitored intersections and it would be an expensive initial investment for the vendor. Vice Mayor Walters assured her fellow Councilmembers that staff intends to incorporate language in the RFP that would require the vendor to update any new technology into the system when it becomes available.

Discussion ensued relative to the statistical data obtained by the Police Department regarding collisions at monitored intersections versus non-monitored intersections; and that the expansion of the number of photo safety monitored intersections from 17 to 30 would provide Mesa a more comprehensive traffic safety program.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, to direct staff to proceed with a Request for Proposals (RFP) for the Photo Safety Services Contract, and to extend the current contract with Affiliated Computer Services for a period of six months.

Councilmember Griswold expressed support for the motion, but stated that he would reserve judgment on the various "add-alternates" until he has an opportunity to review the vendors' proposals. He stated the opinion that the Photo Safety Program does save lives and prevent injuries.

Councilmember Thom voiced opposition to the motion and said that she does not like a system where "Big Brother is watching you." She also expressed a series of concerns including the cost of the program; that many out-of-state and rental car drivers may not receive citations; and that "speed on green" should not be included as a component of the contract. Councilmember Thom added that in her opinion, the program is an invasion of the citizens' privacy.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Rawles-Walters-Whalen
NAYS - Thom

Mayor Hawker declared the motion carried by majority vote.

*b. **Deleted.**

9. Consider the following cases from the Planning and Zoning Board and possible adoption of the corresponding Ordinances:

*a. **Z04-100 (District 6)** 6136 East Auto Loop Avenue. Located south and west of Southern Avenue and Superstition Springs Boulevard (5.7± ac). Rezone from M-1 PAD to M-1 PAD BIZ and Site Plan Review. This request is for the development of a four-story parking facility with associated auto services. Kent C. Earle, owner; Richard Cartell/Bob Fisher, applicant – Ordinance No. 4334.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all Superstition Springs Auto Park Development Guidelines, with the clarification that any canopies/awnings required by the Design Review Board for the fourth story, above the maximum height limit of forty (40) feet, be permitted.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. All street improvements and street frontage landscaping to be installed in the first phase of construction.
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *b. **Z04-102 (District 4)** 659 East Main Street. Located south and east of Main Street and Mesa Drive (0.67± ac). Rezone from R-2 to C-2 and Site Plan Review. This request is for the development of additional on-site parking and associated site improvements for an existing business. Mike Dudley, owner; Marty Fifer, applicant – Ordinance No. 4335.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below.
2. Compliance with all requirements of Design Review staff.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Obtainment of a Substantial Conformance Improvement Permit (SCIP) from the Board of Adjustment or the Zoning Administrator for all code deviations.
5. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *c. **Z04-103 (District 5)** 2919 North Oakland. Located north and west of McDowell Road and Greenfield Road (6.23± ac). Rezone from M-1 to M-1 PAD and Site Plan Review. This request is for the development of office/industrial condominiums. Brad Davis, Greenfield Air Park, LLC, owner; Paul Masse, PHM, Ltd., applicant – Ordinance No. 4336.

P&Z Recommendation: Approval with conditions (Vote: Passed 5-2 (Boardmembers Finter and Adams voting nay)).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Compliance with all requirements of the Design Review Board.

6. Owner granting an Avigation Easement and Release to the City pertaining to Falcon Field Airport which will be prepared and recorded by the City concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit.
 7. The applicant shall provide an archaeological survey prior to commencement of construction.
- d. **Z04-104 (District 2)** The 600 block of North Val Vista Drive (west side). Located north of University Drive and west of Val Vista Drive (17± ac). Site Plan Modification. This request is to allow both ingress and egress to the “Hidden Groves” subdivision from East Decatur Street. Hidden Groves HOA, Sharanette Farnsworth, owner/applicant – Ordinance No. 4337. **A LEGAL PROTEST FILED. ¾ VOTE REQUIRED.**

P&Z Recommendation: Approval with conditions (Vote: Passed 5-2 (Boardmembers Mizner and Esparza voting nay).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Compliance with all requirements of the Subdivision Technical Review Committee.
4. Full access be granted to the subdivision from the drive off of East Decatur Street.
5. The gate should be modified, repaired and maintained so that it does not obstruct or remain in the street when fully opened.

Ross Farnsworth, Jr., the applicant in the case, provided a brief historical overview of the case. He reported that in the initial development of Hidden Groves, he worked with the surrounding neighbors regarding various components of the subdivision such as its design, lighting, the location of the main entrance, the barricades on Dartmouth Street, and the south gate, which the residents agreed would only be used by them as an exit gate. Mr. Farnsworth explained that he is now requesting a Site Plan Modification to allow seven or eight families in the subdivision to use the south gate for ingress and egress to Hidden Groves through the use of a remote control device. He acknowledged that the barricades on Dartmouth Street are scheduled to be removed this month and that the surrounding neighbors have concerns regarding increased traffic in the area. He noted, however, that denial of the Site Plan Modification would route all of the traffic onto Dartmouth. Mr. Farnsworth added that although he is disappointed that the surrounding neighbors have lodged personal attacks against him regarding this request, he would continue to do whatever he could to ensure the safety of the neighborhood.

Linda Goodman, 3428 E. Decatur, a resident of Hidden Groves, stated that all of the residents she has spoken with in the development are supportive of the Site Plan Modification. She also noted that the zoning change would be appropriate for the traffic flow throughout the entire area.

Elmo Elmore, 3523 E. Covina, concurred with the comments of the previous speaker and stated that in his opinion, Hidden Groves residents are courteous drivers and great neighbors.

Mayor Hawker stated that Paulette Hagar, 3333 E. Dover Circle, submitted a speaker card in opposition to the case and would relinquish her time to speak to her husband, C.B. Hagar.

The following citizens spoke in opposition to the Site Plan Modification:

Susan Deaton	3553 E. Covina Street
Peter "Jerry" Garcia	3461 E. Covina Street
Marisa Garcia	3461 E. Covina Street
C.B. Hagar	3333 E. Dover Circle
Lawrence Hummel	3453 E. Covina Street
Tom Duffy	3348 E. Dartmouth Street
John Zinn	3336 E. Dartmouth Street

The foregoing citizens stated the following opinions:

- If the Hidden Groves' south gate is used for ingress and egress, it would create increased traffic congestion on Covina Street.
- The south gate should remain an exit gate only.
- Hidden Groves' main gate (which exits onto Dartmouth Street) would be a better alternative for ingress/egress into the subdivision.
- The Site Plan Modification is a self-serving request for the convenience of a few families in Hidden Groves.
- As part of the original development conditions, the developer of Hidden Groves agreed that the East Decatur Street gate would be an exit only. A modification has now been requested for said gate, but nothing has changed to support such a request.
- The south gate is located so close to the street that cars wishing to enter the development must stop on the street for the gate to open and/or for a car to exit.
- This request is premature given the pending improvements to Dartmouth Street.
- There may be an issue of inadequate gate width to allow two vehicles to enter and exit at the same time, thereby forcing traffic back onto City streets.
- There is no justification approving a gate that may not meet the standards that have been set for other gated communities in Mesa.
- Approving the Site Plan Modification violates a trilateral agreement entered into seven years ago by Hidden Groves, the City of Mesa and the surrounding neighbors.
- When Dartmouth Street is open, it would be the longest straightaway in all of the grove developments without a traffic device or speed bumps.

In response to a question from Mayor Hawker, Planning Director John Wesley stated that staff determined that the traffic volume in the area was not considered significant enough to impact the neighborhood. He also commented that the design of the south gate does not appear to be problematic due to the limited amount of traffic in the area. Mr. Wesley added that it is the recommendation of staff that the Site Plan Modification be approved.

Traffic Engineer Alan Sanderson reported that based on his analysis of Decatur Street, the low traffic volume and the limited number of homes in the area, if the south gate were used for ingress and egress to Hidden Groves, in his opinion, it would not cause any traffic operational problems or concerns. He acknowledged that with the development of a residential subdivision north of Dartmouth Street and the opening of Dartmouth, traffic patterns would change. Mr. Sanderson noted, however, that the south gate should be modified to open the full width of the

roadway (20 feet) in order to accommodate two vehicles. He added that he did not anticipate that the staging of vehicles in the roadway waiting for the gate to open would be a traffic hazard.

Discussion ensued relative to suggestions made by the surrounding neighbors to the developer concerning rephrasing the south gate and its potential negative impact on Hidden Groves; the fact that all of the residents of Hidden Groves were given the opportunity to request remote control devices in order to activate the south gate and that only seven to eight families have elected to do so; and that the gate can be activated at a distance of approximately 40 to 50 feet and has a cycle time of approximately eight to ten seconds.

Councilmember Whalen reported that in 1997 when Hidden Groves, which is located in his district, was first developed, it was a somewhat contentious project because of a series of traffic issues. He explained that this case is before the Council tonight because, as evidenced by the large number of speakers, the applicant and the surrounding neighbors have been unable to reach a compromise. Councilmember Whalen acknowledged the concerns of the neighbors regarding the opening of Dartmouth Street, but stated that ingress and egress from the south gate to Hidden Groves would help alleviate traffic to the north. He commented that after taking into consideration the analysis of Mr. Sanderson and the recommendations of the Planning and Zoning Board and staff, in his opinion, the most sensible solution is to approve the request for Site Plan Modification.

It was moved by Councilmember Whalen that Zoning Case Z04-104 be approved and Ordinance No. 4337 adopted.

Councilmember Whalen stated that he is committed to working with the applicant and the surrounding neighbors to resolve the impending traffic concerns on Dartmouth once the street is opened. He also encouraged Mr. Farnsworth to address child and traffic safety issues relative to the south gate.

Councilmember Thom seconded the motion.

Councilmember Griswold expressed familiarity with the surrounding area and acknowledged that it has a relatively low traffic volume at this time. He questioned, however, what the impact would be on the neighborhood once Dartmouth Street is open and expressed concerns that it could become a speed trap. Councilmember Griswold stated that it is important that the residents in the area reach a compromise to resolve the traffic safety concerns in the neighborhood. He expressed support for the motion, but added that he is anxious to see the manner in which the safety issues are rectified.

Mayor Hawker expressed support for the motion. He stated that if he had been on the Council in 1997 when the Hidden Groves development first came forward, he would have been supportive of both the north and south entrances providing ingress and egress into the subdivision.

Vice Mayor Walters advised that she was serving on the Council in 1997 and does remember the case. She commented that when the Council and the Planning and Zoning Board consider zoning cases, they solicit input from all of the parties and hopefully make wise decisions. Vice Mayor Walters noted, however, that after such decisions are made, circumstances sometimes change and it becomes appropriate for an applicant to make modifications. She expressed

support for the motion and stated that she does not believe that the Site Plan Modification would be harmful to the neighborhood, but rather would facilitate the area by allowing Hidden Groves' residents the use of the south gate for ingress and egress to the subdivision.

Councilmember Whalen suggested that staff contact the developers of the residential subdivision on Dartmouth Street to address traffic mitigation.

Councilmember Rawles commented that this case does not involve any property rights' issues and stated that in his opinion, whether the seven or eight families who want ingress and egress to the Hidden Groves via the south gate are allowed to do so "amounts to a hill of beans."

Carried unanimously.

10. Consider the following subdivision plat:

- *a. "MAP OF DEDICATION OF VELOCITY WAY, SOUTH TAXIWAY CIRCLE AND SOUTH CARGO WAY," – The 6200-6400 blocks of South Sossaman Road (east side) located north and east of Pecos Road and Sossaman Road. Williams Gateway Airport Authority, a Municipality, owner; Kimley-Horn and Associates, Inc., engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:30 p.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, 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 3rd day of January 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK