

COUNCIL MINUTES

October 10, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on October 10, 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
Debbie Spinner
Barbara Jones

Invocation by Dr. Brant D. Baker, First Presbyterian Church.

Pledge of Allegiance was led by Councilmember Whalen.

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. 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 Vice Mayor Walters, seconded by Councilmember Whalen, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the August 25, September 15, 19 and 29, 2005 Council meetings.

3. Conduct a public hearing on the McLellan Road Scalloped Street Assessment Project No. 04-004-001.

This project installed street improvements along East McLellan Road from North Val Vista Drive to the east 1,265 feet plus or minus.

Mayor Hawker announced that this is the time and place for a public hearing regarding the McLellan Road Scalloped Street Assessment Project No. 04-004-001.

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:

*4a. MARLA M. GIARRATANO, DIRECTOR

Special Event Liquor License application for Marla M. Giarratano, Director, United Food Bank, a one-day charitable event to be held on Saturday, November 5, 2005, from 6:00 p.m. to 10:00 p.m. at 358 E. Javelina Avenue. District # 4.

*4b. DEBBIE LAN NGUYEN, AGENT

New Beer & Wine Store License for Cobble Stone, 1821 S. Country Club Drive. This is an existing business. The license previously held at this location by Riad F. Khaled, Agent, Texaco Star Mart will revert back to the State. District #4.

*4c. DENNIS LYNN AUSTIN, AGENT

New Beer & Wine Store License for DenMart Convenience Store, 5151 E. McKellips Road. This is an existing business. The license previously held at this location by Cyrus Mohammadzadeh, Agent, Cyrus Higley LLC will revert back to the State. District #5.

*4d. LAUREN KAY MERRETT, AGENT

New Restaurant License for Bullwinkles, 2235 S. Power Road. This is new construction. No previous liquor license at this location. District #6.

*4e. H.J. LEWKOWITZ, AGENT

New Restaurant License for Chipotle Mexican Grill #0717, 1130 W. Grove Avenue, Building 1, Suite 101. This is new construction. No previous liquor license at this location. District #3.

*4f. SANDRA L. GOMEZ, INDIVIDUAL

New Restaurant License for Mariscos Vamos Con Tavo, 816 S. Stapley Drive. This is an existing business. The license previously held at this location by Yolanda Vidal Araujo, Individual, Mariscos Vamos Con Tavo will revert back to the State. District #4.

*4g. KIMBERLY ANN BUTLER, AGENT

New Restaurant License for Simpleton's, 2639 E. Broadway Road, Suite C105. This is an existing business. The license previously held at this location by Danny Kinnard, Agent, Simpleton's will revert back to the State. District #2.

5. Consider the following contracts:

*5a. Additional purchase of Six Automated Side Loading (ASL) Refuse Trucks for the Solid Waste Division. (Contract 2004178)

The Purchasing Division recommends authorizing an additional purchase option with the original bidder, Cunningham Commercial Vehicles, in the amount of \$1,228,615.38, including extended warranties and applicable sales tax.

*5b. One-year Renewal of Supply Contract for Tires for Warehouse Inventory as requested by the Fleet Support Services Division. (State Contract #AD040531)

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Goodyear Tire & Rubber Company. Purchases will be split between two distributors: Wingfoot Commercial Tire for \$455,395.17 and Purcell's Western States Tire for \$50,599.46 for total annual purchases estimated at \$505,994.63.

*5c. Two-year Renewal of Supply Contract for Traffic Sign Posts for Warehouse Inventory as requested by the Transportation Division. (2002186)

The Purchasing Division recommends authorizing the two-year renewal with Allied Tube & Conduit at \$84,235.95 annually, based on estimated requirements including contingencies and applicable taxes.

*5d. Two-year Renewal of Supply Contract for Spray Marking Paint for Warehouse Inventory as requested by the Gas Utility Division Utility Locating. (2002172)

The Purchasing Division recommends authorizing the two-year renewal with Griggs Paint of Domcom Ent. at \$35,394.49 annually, based on estimated requirements and including contingencies and applicable sales tax.

*5e. Three-year Contract for Landscape Maintenance for Parks and Retention Basins, in an area designated as Zone 8, as requested by the Parks and Recreation Division. (2005159)

The Purchasing Division recommends accepting the overall low bid meeting specification by The Groundskeeper at \$317,496.00 annually, based on estimated requirements.

*5f. Firearms Training Simulator System as requested by the Police Department. (Sole Source)

The Purchasing Division recommends authorizing purchase from IES Interactive Training for \$50,338.55, including options and applicable sales tax. **Grant funds provided by AZPOST.**

- 5g. 54-inch Reclaimed Waterline, Ocotillo Road to Gila River Indian Community, City of Mesa Project No. 01-923-003.

This project will construct the south half of this reclaimed waterline from Ocotillo Road south along Val Vista Road to the Gila River Indian Community (GRIC) inlet structure at the Highline Canal, near the Hunt Highway. Improvements include the installation of 16,350 lineal feet of 54-inch reclaimed water line.

Recommend award to low bidder, Highland Engineering, in the amount of \$5,800,000.00 plus an additional \$580,000.00 (10% allowance for change orders) for a total award of \$6,380,000.00.

Mayor Hawker declared potential conflicts of interest on items 5g and 5h and said he would refrain from discussion/consideration of these agenda items. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

It was moved by Councilmember Jones, 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.

- 5h. Desert Sage Zone Waterline, City of Mesa Project No. 01-564-001.

This project will install a new 24-inch waterline from Crismon Road east along Main Street to 104th Street, then south from Main Street along 104th Street to Broadway Road, then east from 104th Street along Broadway Road to Signal Butte Road. This waterline is part of the City's Water Master Plan.

Recommend award to low bidder, Pierson Construction, in the amount of \$2,225,000.00 plus an additional \$222,500.00 (10% allowance for change orders) for a total award of \$2,447,500.00.

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.

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

6. Introduction of the following ordinances and setting November 7, 2005 as the date of public hearing on these ordinances:

- *6a. Moved to Agenda Item 7h.
- *6b. **A04-09 (District 6)** Annexing the southeast corner of Elliot and Sossaman Roads. (59.94+ acres). Initiated by the property owner (Thomas Dodd).

7. Introduction of the following ordinances and setting October 24, 2005 as the date of public hearing on these ordinances:

- *7a. **Z04-105 (District 6)** The 1600 block of South Signal Butte Road (west side). Located south of US 60 and west of Signal Butte Road (91± ac.). Requesting a Council Use Permit to allow the development of a Freeway Landmark Monument sign in conjunction with the construction of a group commercial center. **(Contacted registered neighborhoods.)**

P&Z Recommendation: Approval with conditions. (Vote: Passed 5-1-1 with Finter nay and Carpenter absent)

DRB Recommendation: Approval with conditions. (Vote: Passed 5-0-1 with DiBella abstaining)

- *7b. **Z05-86 (District 4)** 1316 East Southern Avenue (north side). Located on the northwest corner of East Southern Avenue and South Doran Street (1.13 ac). Rezone from O-S to C-1 and Site Plan Review. This request will allow for the development of a commercial building with ancillary office and warehouse spaces. **(Held neighborhood meeting and contacted neighbors.)**

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Finter abstaining)

- *7c. **Z05-87 (District 6)** 7115 East Baseline Road (south side). Located south of Baseline Road and east of Superstition Springs Boulevard (2.1 ac). Rezone from AG to C-2 and Site Plan Review. This request will allow for the development of a retail/office complex. **(Mailed written notifications to property owners and registered neighborhood associations.)**

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

- *7d. **Z05-88 (District 5)** The 8400-8700 block of East Range Rider Trail (north and south side). Located at the southeast corner of Thomas Road and Hawes Road (71.76 ac). Rezone from Maricopa County Rural 35 to City of Mesa R1-35. Establishment of City zoning.

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

- *7e. **Z05-90 (District 6)** The 8800-9000 block of East Germann Road (north side). Located west of the northwest corner of Germann Road and Ellsworth Road (49 ac. ±). Rezone from M-1 to M-1 PAD and site plan review. This request is to allow for a light industrial complex. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners' associations.)*

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Finter abstaining)

- *7f. Amending Section 11-18-8 K of the Zoning Ordinance pertaining to the legal protest filing deadline from the Friday noon prior to the City Council public hearing to one week prior to the City Council public hearing.

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

- *7g. Amending Section 11-1-6 "Definitions" and 11-13-2 "Supplementary Provisions" of the Zoning Ordinance pertaining to replacement of the term "infill site" with the term "bypassed properties."

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

- *7h. **A05-08 (District 5)** Annexing land located on the SEC of Hawes and Thomas Roads. (71.76 ± ac.). Initiated by Paul Gilbert representing City View Properties, LLC for the development of a residential subdivision.

8. Consider the following resolutions:

- *8a. Designating Saturday as the primary and Wednesday as the secondary day for publication of legal notices – Resolution No. 8596.

- *8b. Approving and authorizing the City Manager to execute an amendment to an Intergovernmental Agreement between the State of Arizona through the Department of Economic Security and the City of Mesa to increase funding for Case Management Services – Resolution No. 8597.

- *8c. Extinguishing a Public Utilities Easement at 2942 N. Greenfield Road – Resolution No. 8598.

This easement is being extinguished to allow for the development of a new project known as Greenfield Business Center.

- *8d. Extinguishing Public Utilities Easement at 4724 E. Ingram Street – Resolution No. 8599.

This easement is no longer required.

- *8e. Extinguishing a Drainage Easement located at 6116 E. Arbor Avenue – Resolution No. 8600.

This easement is no longer required.

- *8f. Extinguishing a Drainage Easement located at 4447 and 4503 E. Ivy Street – Resolution No. 8601.

This easement is no longer required.

- *8g. Granting a Power Distribution Easement to Salt River Project at Dobson Ranch Golf Course – Resolution No. 8602.

This easement is necessary for new electrical lines to be installed to replace the old lines to the residential subdivision adjacent to the golf course.

- *8h. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Criminal Justice Commission to fund forensic crime scene investigation training for Police Department personnel to enhance investigation of criminal cases – Resolution No. 8603.

- *8i. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Criminal Justice Commission to fund technical forensic training for Police Department personnel to enhance investigations of criminal cases – Resolution No. 8604.

- *8j. Approving and authorizing the City Manager to execute the first amendment to the agreement for treatment and delivery of Central Arizona Project Water between the City of Mesa, Apache Junction Water Company and Arizona Water Company – Resolution No. 8605.

- 8k. Approving and authorizing the City Manager to execute the necessary agreements to secure the Light Rail End Station and Park and Ride Lot – Resolution No. 8606.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that Resolution No. 8606 be adopted.

In response to an inquiry from Councilmember Thom, Transportation Planning Administrator Kevin Wallace explained that express buses would continue to run to downtown Phoenix from their current locations in Mesa. He noted, however, that there would be no express bus service operated out of the above-referenced park and ride lot.

Councilmember Rawles commented that even though he is opposed to the light rail transit project, he would support the motion in order to “implement the will of the Council.”

Mayor Hawker called for the vote.

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 Resolution No. 8606 adopted.

8l. Approving the final assessments for the McLellan Road Scalloped Street Assessment Project No. 04-004-001. This project installed street improvements along East McLellan Road from North Val Vista Drive to the east 1,265 feet plus or minus – Resolution No. 8607.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Resolution No. 8607 be adopted.

Carried unanimously.

*9. Recommending temporary agency vendors for the purpose of recruiting and payrolling temporary agency workers.

10. Consider the following recommendations from the General Development Committee:

10a. Approving proposal for preparing a neighborhood area plan for a portion of West Main Street and an associated Transit Oriented Development (TOD) overlay district ordinance for an area around the Main/Sycamore light rail station.

It was moved by Vice Mayor Walters, seconded by Mayor Hawker, that staff's proposal for preparing a neighborhood area plan for a portion of West Main Street and an associated Transit Oriented Development (TOD) overlay district ordinance for an area around the Main/Sycamore light rail station, be approved.

Councilmember Thom expressed a series of concerns regarding the City's implementation of a Transit Oriented Development (TOD) overlay district in an area where businesses are located adjacent to the light rail route. She stated the opinion that it is not necessary for the City to codify such action and commented that Mesa already provides oversight with regard to development through, for example, the Planning & Zoning Board, Design Review Board, and ultimately the City Council. Councilmember Thom added that she sees no reason for "another layer of oversight" in order for a business to develop in Mesa.

Vice Mayor Walters clarified that the intention of the ordinance is to facilitate development for the property owners located in the overlay district area that would be consistent with transit oriented development. She also noted that she is aware of business owners in west Mesa who are already considering potential development using the TOD overlay district.

Councilmember Rawles commented that he supports the concept of transit oriented development, but is opposed to "another plan" and would not be in favor of the motion.

Mayor Hawker expressed support for Mesa "maximizing the investment" being made for regional transportation alternatives, including light rail and rapid transit. He explained that the

TOD overlay district would allow for large parcels along Main Street (for example, those being vacated by car dealerships), to be redeveloped into multiple uses and not “locked into a master plan” created years ago.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- *10b. Approving proposed Building Safety permit fee structure concept and directing staff to prepare the required ordinances to implement the proposal.

10.1 Consider the following recommendations from the Police Committee:

10.1a. Consider issues associated with the proposed Photo Safety Program:

1. Approving design of the proposed system.
2. Awarding contract to American Traffic Solutions, Inc.

Richard T. Tracy, Sr., 2238 S. Cottonwood Street, expressed a series of concerns regarding the ineffectiveness of photo safety programs throughout the Valley. He commented that in particular, “speed traps” have been established in areas where accidents are not occurring. Mr. Tracy also questioned whether such a program actually decreases the number of accidents and urged the Council to consider other models that are more cost effective.

Traffic Lieutenant Ben Kulina addressed the Council and responded to various issues raised by Mr. Tracy. His comments included, but were not limited to, the following: that a transportation study conducted by the City revealed that accidents (both injury and total collisions) have decreased at red-light monitored intersections; that although the City has “lost money” on the program in the past, with the implementation of the new cameras and digital technology, it is anticipated that the program should become cost effective; that it is staff’s intention to place “speed on green” at up to five intersection locations and set a determined miles per hour over the speed limit; that if violators proceed through the intersection at 11 miles an hour or greater above the speed limit, they would receive a citation; and if a motorist is speeding and runs a red light, they would receive a violation for the red light camera violation.

Mayor Hawker clarified that the Police Department recommends that the Photo Safety Program include the following components:

- Red light cameras with the ability to expand up to 30 intersections based on accident analysis.
- “Speed on green” at 1 to 5 moveable locations.
- Four photo radar vans staffed by City personnel.

Vice Mayor Walters expressed appreciation to Mr. Tracy for addressing the Council regarding this issue. She noted that part of the “disconnect” for most citizens is the fact that Mesa has more accidents, but they don’t all occur at intersections.

Discussion ensued relative to the fact that the Photo Safety Program is just one tool that the Police Department uses to address a decrease in collisions within the City; that just this year, there has been a high number of fatal collisions in Mesa, and staff is aggressively pursuing methods by which to reduce such statistics; that none of the fatal collisions occurred at a photo safety intersection; that the police officers can only do “so much” in a 24-hour period and the red light cameras, “speed on green” and photo radar vans would be visual reminders for motorists to slow down; and the Collision Reduction Program.

Vice Mayor Walters stated that by using the electronic tools recommended for the proposed Photo Safety Program, the Police Department is “freeing up” its officers to target specific problem areas in Mesa. She expressed appreciation to staff for their efforts and hard work regarding the proposal and commented that it would be of benefit to the entire community.

Councilmember Thom voiced opposition to the proposed Photo Safety Program and stated that the City would be “better off” addressing speed-related factors such as alcohol, drugs and road rage. She commented that in her opinion, photo radar would not replace officers and said that it is also unlikely there would be expanded traffic safety enforcement in Mesa’s neighborhoods and on residential streets. Councilmember Thom added that her perception of the program is akin to “Big Brother watching you” and said that she would prefer that government not intrude into everyone’s lives any more than it is already doing.

Councilmember Griswold acknowledged that the goal of the Photo Safety Program is to reduce fatalities and make Mesa a safer community. He questioned, however, whether speed vans are the best tool by which to reduce speed and said that he would like to see the implementation of speed humps, for example, in residential areas. Councilmember Griswold added that in previous years, the Photo Safety Program has resulted in a deficit for the City and stated that he would prefer “a guaranteed system” in which the City would no longer incur a financial loss.

Mayor Hawker expressed support for staff’s proposal. He commented that the program would be an effective use of City resources in order for Mesa police officers to be deployed to pursue Mesa’s higher number of calls for service.

Councilmember Jones, as Chairman of the Police Committee, reported that when this matter was discussed by the Committee, the members specified that they wanted more coverage by the photo radar vans in residential areas and/or school zones. He also commented that in his opinion, the “speed on green” would be more effective when motorists are converging into the intersections.

Councilmember Whalen thanked Mr. Tracy for sharing his viewpoints with the Council. He explained that the Police Department will inform the motoring public, prior to issuing citations, that the City intends to monitor the speed of vehicles traveling through various intersections in the community. Councilmember Whalen stated that he also expects to see photo radar vans in residential areas once speed enforcement at the intersections has been implemented. He acknowledged that photo radar is always going to be a contentious issue and said that he

hoped the State legislature would consider requiring the owner of the vehicle to be held responsible for the speed violation.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that the design of the proposed system, as previously outlined by Mayor Hawker, be approved.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

It was moved by Councilmember Rawles, seconded by Councilmember Jones, to award the contract to American Traffic Solutions, Inc.

Councilmember Thom commented that she does not favor one vendor over another and is merely opposed to photo radar enforcement of Mesa's traffic laws.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

11. Consider the following case from the Planning and Zoning Board and possible adoption of the corresponding Ordinance:

- *11a. **Z03-64 (District 3)** Northwest corner of Sycamore and Main Street (14.46 ac.). Rezone from C-2 and C-3 to C-2 BIZ and C-3 BIZ and Site Plan Modification. This request is for the development of a bus/light rail transfer lot and park-and-ride facility to serve the Mesa light rail station and to reserve a site for future Transit Oriented Development (TOD). Judith A. Klein, Rising Sun, LLC., owner; Jeff Martin, City of Mesa, applicant – Ordinance No. 4466. *(There has been extensive outreach effort made by the applicant to provide information and seek input from the neighbors.)* **CONTINUED FROM THE MAY 3, 2004, MAY 17, 2004, JUNE 7, 2004, JULY 6, 2004, AUGUST 16, 2004, SEPTEMBER 7, 2004, OCTOBER 4, 2004, DECEMBER 6, 2004, FEBRUARY 7, 2005, MARCH 7, 2005, APRIL 18, 2005, MAY 16, 2005, AND JULY 5, 2005 CITY COUNCIL MEETINGS.**

P&Z Recommendation: Approval with conditions (Vote: Passed 6-0, Saemisch abstaining).

12. Consider the following subdivision plats:

- *12a. "FAIRWAY MANOR UNIT 2," – (**District 1**) – 1800 block of North Barkley (west side) located south and east of McKellips Road and Stapley Drive. 4 R-2 PAD single residence lots (0.41 ac) Nupetco Associates, owner; Landev Engineers, LLC., engineer.
- *12b. "MAIN STREET CASITAS," – (**District 5**) – 5700 block of East Main Street (south side) located south and west of Main Street and Recker Road. 58 R-2 PAD townhome units (7.96 ac) 56th & Main Development, LLC., Dragomir Mikalacki, owner; D&M Engineering, engineer.

13. Items from citizens present.

Heather Scantlebury, 120 W. University Drive, stated that she is the new owner of a 1922 bungalow currently located at 643 E. Main Street, which will soon be moved to her property in the Evergreen Historic District. She requested Council support regarding her private efforts to preserve and restore a potential historic landmark.

14. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:35 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 10th day of October 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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