



## COUNCIL MINUTES

September 20, 2004

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on September 20, 2004 at 5:47 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 Paul Covert, Prayer Pastor, Central Christian Church of the East Valley.

Pledge of Allegiance was led by Easton Spencer, Boy Scout Troop No. 798.

Presentation of the Don Cooper Memorial Award by the Mesa Public Safety Foundation.

Former Mayor Wayne Pomeroy, President of the Mesa Public Safety Foundation, stated that two of the Foundation's Vice Presidents were also present, Alex Finter and Milt Lee.

Mr. Pomeroy provided details of a "swift water" rescue performed by two Mesa Police Officers, Helicopter Pilot H. David Salem and Officer Steven Berry, and on behalf of the Public Safety Foundation, he presented each with a plaque in recognition of their accomplishment.

Mr. Lee presented the Don Cooper Memorial Award to Firefighter Gary Gallagher in recognition of his successful effort to restrain an individual who, despite being tazed, was out of control and poised to attack a Mesa Police Officer. He stated that Firefighter Gallagher tackled and restrained the individual until additional Police officers arrived on the scene. Mr. Lee also recalled a heroic incident several years ago when Firefighter Gallagher successfully restrained a woman who was attempting to commit suicide.

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 Thom, that the consent agenda items, excluding item 9c, be approved.

Carried unanimously.

2. Conduct a public hearing for the following proposed annexations:

- a. **A04-09** Annexing the southeast corner of Elliot and Sossaman Road. (59.94± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing the southeast corner of Elliot and Sossaman Road. (59.94± acres).

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

- b. **A04-10** Annexing the southwest corner of Ray Road and South Mountain Road. (160.71± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing the southwest corner of Ray Road and South Mountain Road. (160.71± acres).

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

- c. **A04-06** Annexing the northwest corner of Williams Field Road and Mountain Road. (11.97± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing the northwest corner of Williams Field Road and Mountain Road.

Rosemary Leisure, 15506 South Mountain Road, expressed opposition to the subject annexation. She stated that if the annexation petitions were approved by five of the nine homeowners, the impact on the remaining four homeowners included:

- Limited access to their property.
- The City of Mesa would not issue future building permits for remodeling.
- The property could not be sold.

David C. Boye, 15308 South Mountain Road, also spoke in opposition to the annexation. He noted that four properties in the area would be "land locked" if the annexation was approved.

In response to a request from Mayor Hawker, City Attorney Debbie Spinner outlined the annexation process. She stated that Council approval of this agenda item would allow the release of the petitions for signatures relative to the annexation. Ms. Spinner advised that the Council also has the option to deny the release of the petitions, which would terminate this proposed annexation.

Planning Director John Wesley explained that the only access to properties on the north and west side of the proposed annexation area is through a private easement off of Mountain Road, and that the easement is too narrow to be dedicated for public access.

Planner David Nicolella displayed a map of the area and identified the locations of the existing easements.

In response to a request from Mayor Hawker, Mr. Boye addressed the Council and stated that the easement was sufficiently wide to accommodate fire trucks and trash collection vehicles.

Ms. Spinner advised that prior to being asked to sign the petition, the neighborhood residents would be invited to attend a meeting at which the implications and the cost related to being annexed into the City of Mesa would be explained. She also confirmed to Mayor Hawker that the petition signature requirements in order to move forward with the annexation are 50 percent by land ownership and 50 percent by assessed value.

Mr. Wesley concurred with the comments of Councilmember Rawles that the property described in agenda item 2b is completely surrounded by Maricopa County land, but he noted that the property in agenda item 2c is not surrounded by County land.

Responding to a question from Vice Mayor Walters, Mr. Wesley stated that an annexation could create a situation where an owner does not have legal access to his or her property. He explained that a lot without street frontage could not be legally recognized by the City, and therefore the property owner could not obtain a building permit in the future. Mr. Wesley reported that current standards require a 20-foot easement in order to provide a proper turnaround, and that dustproof paving of the street is also required. He advised that staff recommends that these issues be resolved prior to releasing the petitions.

Deputy City Attorney Joe Padilla stated that the residents of the proposed annexation area might not be fully aware of the City's requirements and the impact of annexation on future development.

In response to Vice Mayor Walters' question regarding the possibility of postponing a vote on this agenda item, Mr. Wesley stated that the Council is expected to take action at this time to release or to deny the release of the petitions. He advised that a postponement option is not available due to the fact that, following a thirty-day window from the date of the annexation request, a ten-day period exists during which the public hearing is required to be held.

Councilmember Thom expressed concerns regarding the fact that annexation into the City would require the residents to abandon their wells, that the General Plan designates this area as industrial, and that the homes would be considered non-conforming.

Mr. Wesley advised that the General Plan designates the area as a future business park development. He noted that the County's current designation is R-143, and that is the initial comparable zoning that the City would apply to the annexation, resulting in zoning that is different from what is contained in the General Plan. He stated that until such time that resolution could be achieved regarding the areas of contention (access issues, properties that do not meet the current development standards due to a lack of frontage, and the conflict with the General Plan), staff recommends that the Council deny the release of the petition.

It was moved by Councilmember Thom that this item be continued to another date until the issues are resolved.

Mayor Hawker asked staff to advise if the motion to continue was appropriate during the public hearing.

Ms. Spinner recommended that Mayor Hawker close the public hearing for agenda item 2c and then separately discuss and vote on agenda items 2a, b, and c.

Councilmember Thom withdrew her motion.

The Mayor declared the public hearing closed.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that the Council authorize the release of petitions for agenda item 2a, proposed annexation A04-09.

Carried unanimously.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the Council authorize the release of petitions for agenda item 2b, proposed annexation A04-10.

Councilmember Rawles expressed concern regarding annexations that are connected by narrow ten-foot strips, and said for that reason he would oppose this item.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

It was moved by Councilmember Thom, seconded by Councilmember Griswold, that the Council continue agenda item 2c and deny the release of petitions for the proposed annexation A04-06.

Ms. Spinner noted that the State Statutes are unclear regarding the legality of continuing this item. She explained that annexations must strictly comply with the Statutes, which require that the public hearing be held within the last ten days of the thirty-day period. Ms. Spinner noted that the Statutes do not specifically require a vote, but if the Council votes to continue the item and a determination is made that the item could not be continued, the applicant will be required to initiate a new annexation process.

In response to comments from Mayor Hawker, Ms. Spinner confirmed that a legal opinion would be provided to the Council regarding the continuance issue.

Mayor Hawker called for the vote.

Carried unanimously.

3. Conduct a public hearing on a proposed Minor General Plan Amendment. (See item #9c).

- a. **GPMinor04-06 (District 6)** The 10500-10800 block of East Southern Avenue (south side) and 1200-1600 block of South Signal Butte (west side). Located on the southwest corner of Southern Avenue and Signal Butte Roads (55.51 ac). Minor General Plan Amendment to change existing land use designation from Community Commercial to Regional Commercial. Signal Butte 114, L.L.C. (Michael Hassett), owner; Ralph Pew (Pew and Lake, PLC).

Mayor Hawker announced that this is the time and place for a public hearing regarding amending the Mesa 2025 General Plan Land Use map for GPMinor04-06 from Community Commercial to Regional Commercial.

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

3.1. Conduct a public hearing on a proposed Minor General Plan Amendment. (See item #9g).

- a. **GPMinor04-05 (District 6)** The northeast corner of Guadalupe and Signal Butte Roads. Minor General Plan Amendment to change existing land use designations of the Mesa 2025 General Plan Land Use map from Medium Density Residential 4 – 6 (MDR 4-6) to Neighborhood Commercial (NC) of 19.7± gross acres.

Mayor Hawker announced that this is the time and place for a public hearing regarding amending the Mesa 2025 General Plan Land Use map for GPMinor04-05 from Medium Density Residential 4 – 6 (MDR 4-6) TO Neighborhood Commercial (NC).

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

4. Conduct a public hearing on rate changes for industrial wastewater utility service for customers outside the City limits. (See item #8c)

Mayor Hawker announced that this is the time and place for a public hearing regarding modifying the rate schedule for industrial wastewater utility service for customers outside the City limits.

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

\*5. Approval of minutes of previous meetings as written.

Minutes from the August 11 and September 7, 2004 Council meetings.

6. Consider the following liquor license applications:

\*a. SUSAN S. RINGLER, DIRECTOR

Special Event License application for Susan S. Ringler, Director, Paz de Cristo Community Center, a one-day fundraiser to be held Friday, October 8, 2004 from 3:00 to 9:00 P.M. at AJ's, 424 W. Broadway Road. District #4.

\*b. JIM BRIAN LUNDQUIST, AGENT

Person Transfer Bar License for The Dog House Bar, 1241 E. Broadway Road, Suite 17. This is an existing business. This is a person transfer from Christian Joseph Battaglia, Agent, CJ's Hideaway Lounge, 1241 E. Broadway Road, Suite 17, Mesa. This license will transfer to the applicant. District #4.

\*c. STEPHEN MARK HORTON, AGENT

New Beer & Wine Store License for Chevron, 4353 S. Power Road. This is new construction. No previous liquor licenses at this location. District #6.

\*d. DEBORAH ANN WADE, AGENT

New Beer & Wine Store License for M&R Market, 1231 S. Mesa Drive. This is an existing business. The license previously held at this location by Andy Youkhanna, Agent, M&R Market will revert back to the State. District #4.

7. Consider the following contracts:

\*a. Two-year renewal of the supply contract for automotive fasteners, related hardware and electrical supplies as requested by Fleet Support Services.

The Purchasing Division recommends exercising the two-year renewal with the original lowest overall bid by Southwestern Supply Company, Inc. for annual purchases estimated at \$50,000.00.

- b. Modular workstations, freestanding furniture, tools, equipment, shelving, and theatrical lighting supplies for the new Mesa Arts Center

The Purchasing Division recommends the following awards:

Authorizing purchase of the modular workstations, chairs, files and related freestanding furniture from the State of Arizona contract with Goodman's, Inc. at \$302,748.10;

Authorizing purchase of power tools, equipment, shelving and related items from the State of Arizona contract with W.W. Grainger, Inc. at \$44,553.72; and

Accepting the low bid from Mainstage Theatrical Supply for lighting fixtures at \$491,769.62.

The combined award is then \$838,787.91.

Councilmember Rawles stated that a major portion of the award is included in the initial contract estimate for the Mesa Arts Center, but \$160,000 of the award is designated for lighting associated with an activity that was not originally anticipated. He expressed opposition to this portion of the contract award.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the recommendation of staff be approved.

Councilmember Thom commented that although \$155,000 of the subject award represents a "cost over run," she would support the award in order to move the project forward to completion.

In response to requests for clarification by Councilmember Griswold and Mayor Hawker, Mesa Arts Center Operations Supervisor Steve McFerron explained that the cost to purchase the additional fixtures was comparable to the expense of a thirty-day rental period for the fixtures, and therefore staff recommended the purchase option.

Arts and Cultural Director Gerry Fathauer reported that research conducted in the past three years indicates that the community is able to support an increased number of programs that will generate additional income. She stated that purchasing the fixtures would maximize the Arts Center's income potential.

Councilmember Rawles stated that although he supports the cost-effective purchase alternative rather than leasing the fixtures, his objection to this item relates to the fact that the fixtures are to be utilized for programs that were not projected or agreed to as part of the original plan three years ago.

Vice Mayor Walters noted that this investment would enable the City of Mesa to realize a greater financial return.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- c. Bus Pullout and Shelter Relocations at Various Locations. City of Mesa Project No. 00-046.2.

This is part of an on-going improvement project. This phase will relocate 1 existing shelter, install 2 existing shelters that are currently in storage and construct 3 bus pullouts.

Recommend award to low bidder, Bunney's, Inc., in the amount of \$239,134.00 plus an additional \$23,913.00 (10% allowance for change orders) for a total award of \$263,047.00.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

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

Upon tabulation of votes, it showed:

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

Vice Mayor Walters declared the motion carried majority vote of those voting.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- \*d. Lindsay and Brooks Reservoir Improvements. City of Mesa Project No. 01-621-001. (Water Bonds)

This project will install new liners and an intake and drain line to improve water circulation within each reservoir.

Recommend award to low bidder, Quest Civil Constructors, Inc., in the amount of \$1,282,282.00 plus an additional \$128,228.00 (10% allowance for change orders) for a total award of \$1,410,510.00.

- \*e. Dobson Ranch Restaurant and Cart Barn Re-Roof, City of Mesa Project No. 03-921-001.

This project will remove the modified bitumen and wood shake roofing on the Dobson Ranch Restaurant and Cart Barn and will replace it with modified bitumen and fiberglass/asphalt shingle roofing.

Recommend award to low bidder, C & N Roofing, Inc. in the amount of \$50,675.00 plus an additional \$5,067.00 (10% allowance for change orders) for a total award of \$55,742.00.

- f. Mesa /Gilbert /Queen Creek Greenfield Water Reclamation Plant (GWRP), City of Mesa Project No. 02-46. (Wastewater Bonds)

This project will construct the Greenfield Water Reclamation Plant that will be used to treat wastewater for portions of Mesa, Gilbert and Queen Creek. For construction costs, Mesa is responsible for 41.8 percent or \$62,985,644.00; Gilbert is responsible for 39.8 percent or \$59,971,976.00 and Queen Creek is responsible for 18.4 percent or \$27,725,738.00. For the total overall project costs, Mesa is responsible for 41.8 percent or \$69,737,015.00; Gilbert is responsible for 39.8 percent or \$66,400,315.00 and Queen Creek is responsible for 18.4 percent or \$30,697,633.00.

Recommend award to the Construction Manager at Risk, a joint venture of McCarthy Southwest and Sundt Construction Corporation, in the amount of \$145,483,358.00 plus an additional \$5,200,000.00 (allowance for change orders) for a total award of \$150,683,358.00.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in this agenda item. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

Vice Mayor Walters advised that staff was present to provide an overview of this project.

Water Division Director Bill Haney provided project information utilizing a PowerPoint presentation (a copy is available for review in the City Clerk's Office). He advised that to his knowledge the contract was the largest Capital Improvement Project (CIP) in the history of the City of Mesa.

Mr. Haney noted that the Greenfield Water Reclamation Plant is in fact a regional plant that will also serve the Towns of Gilbert and Queen Creek. He advised that the original lift station, which went on-line in 1999, will exceed its capacity in 2006, at which time the subject plant, Phase II of the project, will handle 16 million gallons per day (MGD) and at build out in 2030, the plant will treat 52 MGD per day. Mr. Haney also provided the following information:

- The plant, located in the Town of Gilbert in the area of Greenfield and Queen Creek Roads, will be operated by the City of Mesa and provide service to the growth areas of northeast and southeast Mesa and the Towns of Gilbert and Queen Creek, both of which are experiencing tremendous growth in the area of the plant. The Towns of Gilbert and Queen Creek are partners with Mesa in this project.

- The facility will also address Mesa’s future water supply by providing effluent from the new facility that will be exchanged with the Gila River Indian Community on a ratio of five gallons of effluent for four gallons of potable water.

Assistant City Engineer Peter Knudson advised that prior to 2000, the City accomplished CIP projects through a low-bid process. He noted that the State now provides other alternatives to construct capital improvement projects, one of which is the “Construction Manager at Risk” (CM at Risk) process.

Mr. Knudson reported that in 2003 the City Council approved the use of the CM at Risk process for the subject project. He stated that City staff recommended McCarthy-Sundt based on their qualifications, and the Council approved staff’s recommendation. Mr. Knudson advised that staff then negotiated the construction costs with the CM at Risk, and that the City’s design team worked with McCarthy-Sundt to ensure that the design is economical and that the plans are constructable. He further advised that the CM at Risk has also pre-qualified the major subcontractors and suppliers, prepared a detailed construction schedule, and developed a guaranteed maximum price to construct the project, which is listed in the Council Report as \$145,483,000 and a change order allowance in the amount of \$5.2 million for a total award of approximately \$150 million.

Mr. Knudson explained that cost increases impacting the project in the past few months are the result of a worldwide shortage of construction products that is being driven by an increased demand for these materials by Far Eastern countries.

In response to Councilmember Rawles’ comment regarding the fact that the higher than normal design fees should reflect the utilization of new technologies, Mr. Haney confirmed that two of the plant’s systems will be the largest in the world, the ultraviolet (UV) disinfection system and a rotating cloth filtration system. He noted that the project has many “firsts” and “biggest in the world” types of features.

Responding to Councilmember Griswold’s comments, Mr. Haney explained that the primary purpose of utilizing the “CM at Risk” process is to obtain a better product.

Mr. Knudson outlined the approximate breakdown of project costs between the three cities:

City of Mesa	41.8%	\$62,985,000
Town of Gilbert	39.8%	\$59,972,000
Town of Queen Creek	18.4%	\$27,725,000

Discussion ensued relative to the fact that the Towns of Gilbert and Queen Creek have approved these expenditures; that the percentage breakdown of operational costs will be similar to that of the project costs; that the projected life of the plant is 80 to 100 years; and that the solids will be disposed of in landfills or used as fertilizer for cotton fields.

In response to a question from Councilmember Whalen, Mr. Haney stated that the sewer and effluent lines for Mesa, Gilbert and Queen Creek would bring the total cost of the project to over \$200 million. He noted that the item before the Council at this meeting is approval of the plant only. Mr. Haney advised that in the initial years Mesa’s share of the wastewater and probably half of Queen Creek’s effluent will be routed to the Roosevelt Water Conservation District

(RWCD) canal near the intersection of Hunt Highway and Val Vista where the Gila River Indian Community has installed an irrigation project to convey CAP water and the effluent.

Mr. Haney stated that the City of Mesa is utilizing wastewater bonds to fund Mesa's share of the project. He added that the City's profits from the sale of Langley Ranch were used to retire bonds and then the remaining portion was allocated to this project to reduce the bond cost.

Councilmember Jones clarified that the solid waste used as fertilizer can only be used on inedible crops such as cotton.

Responding to a question from Councilmember Thom, Mr. Haney advised that a "rough estimate" is that approximately \$30 million of Mesa's cost would be bonded.

Councilmember Thom expressed appreciation to staff for their contribution to this project.

City Manager Mike Hutchinson noted that the project is very complicated, and he commended staff for their efforts. He added that the construction is just one aspect of the project, and that the operating agreement is also very complex.

In response to questions from Vice Mayor Walters, Mr. Haney stated that Mesa would be the lead operator for the project. He explained that Mesa would struggle with development without this project, but the Town of Gilbert could have utilized the plant yesterday. Mr. Haney added that staff was comfortable with the \$5.2 million allowance for change orders because of the magnitude of the project.

Vice Mayor Walters thanked staff for their efforts regarding this project.

It was moved by Councilmember Griswold, seconded by Councilmember Jones, 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.

8. Introduction of the following ordinances and setting October 4, 2004 as the date of public hearings on these ordinances:

- \*a. Amending various sections of the Mesa City Code regarding the following traffic modifications.

Special Stops Required: 10-3-17 (Through Street Designation)

Pecos Road from Power Road to the east City limits (Williams Gateway Airport area, Council District 6).

No Parking: 10-3-24 (D) (Full Time No Parking)

On Ensenada Street from Power Road to a point 175 feet west of Power Road (between Adobe Road and Brown Road west of Power Road, Council District 5).

On Ivy Street from Greenfield Road to a point 330 feet east of Greenfield Road (between McLellan Road and McKellips Road east of Greenfield Road, Council District 5).

On Pecos Road from Power Road to the east City limits (Williams Gateway Airport area, Council District 6).

On 95<sup>th</sup> Street from Baseline Road to a point 93 feet north of Jacob Avenue (between Ellsworth Road and Signal Butte Road north of Baseline Road, Council District 6).

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

Establish a speed limit of 45 mph on Pecos Road from Power Road to the east City limits (Williams Gateway Airport area, Council District 6)

Establish a speed limit of 45 mph on Sossaman Road from Pecos Road to the south City limits (Williams Gateway Airport area, Council District 6)

Establish a 35 mph speed limit on Sossaman Road from Tahoe Avenue to Pecos Road (Williams Gateway Airport area, Council District 6)

- \*b. Amending Section 11-8-3 of the Mesa City Code relating to office uses in Town Center Residence Districts.
- c. Modifying the rate schedule for industrial wastewater utility service for customers outside the City limits.

Mayor Hawker advised that the purpose of this item was to correct the Council's previous approval of a rate chart that contained erroneous information.

Councilmember Rawles stated that he could support a proposal to return the rates to the original amounts, but he could not support the subject proposal to increase the rates.

Mayor Hawker noted that the subject proposal contains a six percent rate increase.

In response to a question from Councilmember Thom regarding the procedure utilized for this agenda item, City Attorney Debbie Spinner advised that utility rate increases must comply with both the State Statute and the City Charter. She explained that the State Statute requires a public hearing, which was accomplished earlier during this meeting, and that the present action of introducing the ordinance complies with the City Charter. Ms. Spinner further stated that

following introduction, the City Charter requires a public hearing and a vote at the next Council Meeting.

Councilmember Thom asked if the rates were not increased from the level of the prior year, would the Council be required to hold a second hearing.

Ms. Spinner stated that returning the rates to the previous level would require the same procedure due to the fact that the earlier Council action on the incorrect rate schedule resulted in a decrease in the utility rates.

Councilmember Thom stated that she discussed the utility rates with Jeff Whiteman of Empire Southwest, and she reported that he expressed concern relative to the rate increase. She further stated the opinion that rates should not be raised for one customer, and therefore she would not support this rate increase.

Mayor Hawker expressed support for increasing the rates in order to be consistent with the rate increases approved for other customers. He noted that the incorrect published rate chart reduced the rates by 30 to 35 percent. Mayor Hawker stated the opinion that the six percent increase is appropriate for customers located outside the City limits in order to be consistent with the rates charged to customers located inside the City limits.

It was moved by Mayor Hawker, seconded by Vice Mayor Walters, to modify the rate schedule and to introduce the subject ordinance.

Councilmember Whalen advised that he also spoke to Empire Southwest personnel. He stated that Empire recalled a different version of the conversation with Councilmember Thom, and that Empire was left with the impression that the rate increase was being imposed because Empire had not annexed into the City.

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.

- \*d. **Z04-60 (District 6)** Southwest corner of Southern Avenue and 24<sup>th</sup> Street. Located south and east of Southern Avenue and Gilbert Road (1.45 ac.). Rezone from R1-7 to O-S PAD and Site Plan Review. This request is for the development of offices. John Perkinson, Perkinson Investments, owner; Randy Carter, Dream Catchers Planning & Design, L.L.C., applicant.
- \*e. **Z04-61 (District 6)** 5555 East Broadway. Located south and east of Broadway Road and Higley Road (2.87 ac.). Rezone from R1-43 to R-2 PAD and Site Plan Review. This request is for the development of townhomes. John Bellerose, owner; Randy Carter, Dream Catchers Planning & Design, L.L.C., applicant.

- \*f. **Z04-62 (District 6)** The 6600 block of East Baseline Rd (north side). Located north and west of Baseline Road and Power Road (7 ac.) Rezone from C-2 to O-S P.A.D. and Site Plan Review. This request is to allow for the development of a mixed-use commercial development. The Village at Superstition Springs Office Investors, LLC., (Steve Bauer) Shea Commercial, owner /applicant.
- \*g. **Z04-63 (District 4)** The 900 block of South Stapley Drive (east side). Located north and east of Southern Avenue and Stapley Drive (0.38 ac  $\pm$ ). Rezone from R1-6 to O-S and Site Plan Review. This request is to allow a two-story office building. Marie C. Moak, owner; Dorothy Shupe, applicant.
- \*h. **Z04-64 (District 1)** The 1800 Block of North Barkley (west side). Located south and east of McKellips Road and Stapley Drive (0.291ac). Rezone from R1-9 PAD to R-2 PAD and Site Plan Review. This request is to allow four (4) new parcels for housing units. Neuman Petty, Nupetco Associates, owner; Shane M. Kobiak (Landev Engineers, LLC.), applicant.
- \*i. **Z04-65 (District 6)** The 11000 Block of East Apache Trail (south side). Located south and east of Apache Trail and Signal Butte Road (8.5 ac). Site Plan Review. This request is to allow for the development of a group commercial center. ALC- Apache Signal, AZ L.L.C., (Douglas O. Guffy), owner; Ilan Baldinger, applicant.
- \*j. **Z04-66 (District 5)** 1244 North Greenfield Road. Located north and west of Brown Road and Greenfield Road (1.02 ac). PAD Amendment and Site Plan Modification. This request is to allow for the development of medical offices. J Daryl Bethea, Greenfield Medical Dental LLC., owner; Douglas D. Brimhall, applicant.
- \*k. **Z04-67 (District 6)** The 1700 block of South Greenfield Road (west side). Located south and west of US 60 and Greenfield Road (19.17 ac). Site Plan Modification.  
  
This request is to allow a mix of retail and restaurant uses. Jay M. Allen, Lumberjack Capital LLC., owner; Elizabeth Gaston, applicant.
- \*l. **Z04-68 (District 6)** The 2800 block of South Signal Butte Road (east side). Located on the northeast corner of Signal Butte & Guadalupe (19.7 ac). Rezone from AG to C-2 and Site Plan Review. This request is to allow the development of a neighborhood commercial center. Signal Butte / Guadalupe Ltd. Partners, Victor Riches, owner; Ralph Pew, applicant.
- \*m. **Z04-69 (District 5)** The 6000 – 6200 block of East McKellips Road (north side) and the 6200 – 6400 block of East Hermosa Vista Drive (south side). Located north of McKellips Road and east of Recker Road (47 ac  $\pm$  ). Modification of City Council approved Ordinance 4187. This request is to clarify Condition of Approval number 11c (regarding the height of homes) of Ordinance 4187. Shelby Futch, owner; Ray Mehan, Mehan Construction, applicant.

9. Consider the following resolutions:

- \*a. Approving and authorizing the City Manager to execute a Development Agreement for City Share reimbursement between San Fernando Apartments, L.P., and the City of Mesa for regional street improvements that are being constructed in conjunction with the development of the San Fernando Apartments located at 4150 East Main Street – Resolution No. 8326.
- \*b. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the Flood Control District of Maricopa County and the City of Mesa for the design of the McDowell Road and Hermosa Vista Dr-Hawes Road drainage system – Resolution No. 8327.
- c. Amending the Mesa 2025 General Plan Land Use map for GPMinor04-06 from Community Commercial to Regional Commercial – Resolution No. 8331.

It was moved by Councilmember Rawles, seconded by Councilmember Thom, that Resolution No. 8331 be adopted.

Carried unanimously.

- \*d. Approving and authorizing the City manager to execute an agreement between the State of Arizona Department of Transportation and the City of Mesa for the landscape maintenance along the Price Freeway from Guadalupe Road to the Western Canal – Resolution No. 8328.
- \*e. Approving and authorizing the City manager to execute an agreement between the State of Arizona Department of Transportation and the City of Mesa for the landscape maintenance along the Red Mountain Freeway from the Loop 101 to Country Club Drive – Resolution No. 8329.
- \*f. Approving and authorizing the City manager to execute an agreement between the State of Arizona Department of Transportation and the City of Mesa for the landscape maintenance along the Price Freeway from US 60/Price Traffic Interchange to Guadalupe Road – Resolution No. 8330.
- g. Amending the Mesa 2025 General Plan Land Use map for GPMinor04-05 from Medium Density Residential 4 – 6 (MDR 4-6) to Neighborhood Commercial (NC) – Resolution No. 8332.

It was moved by Councilmember Rawles, seconded by Councilmember Thom, that Resolution No. 8332 be adopted.

Carried unanimously.

- h. Approving and authorizing the City Manager to execute an Intergovernmental Agreement regarding the distribution of Indian Gaming revenues between the City of Mesa and the Salt River Pima Maricopa Indian Community – Resolution No. 8333.

Vice Mayor Walters declared a potential conflict of interest and said she would refrain from discussion/participation in this agenda item.

Councilmember Rawles noted that the fund allocations are specifically identified, and he inquired what method was utilized to allocate the funds.

City Manager Mike Hutchinson stated that the City's list of proposed projects is reviewed by the Indian Community Board, and that the Indian Community makes the final decision regarding the allocation of funds. He confirmed that the new Gaming Compact requires revenue sharing in the amount of twelve percent.

In response to Councilmember Rawles' question as to whether the law requires that the Indian Community direct the fund allocation, Mr. Hutchinson advised that he was not familiar with the exact wording of the law, but that the majority of Indian communities have worked cooperatively with the cities regarding the allocation of funds.

Mayor Hawker suggested that fund allocation of Indian Gaming Revenues be a topic for discussion at a future study session.

It was moved by Councilmember Griswold, seconded by Councilmember Jones, that Resolution No. 8333 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 8333 adopted..

9.1. Discuss and consider a salary increase for City Magistrates.

Vice Mayor Walters noted that the City of Mesa Magistrates are paid considerably less than other magistrates throughout the Valley.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the salary for City Magistrates be increased to \$117,000 per year effective October 1, 2004.

Carried unanimously.

10. Consider the following subdivision plats:

- \*a. "BANNER BAYWOOD MEDICAL CENTER", – (Council District 5) – 6600 block of East Baywood Avenue (north side) located north and west of Broadway Road and Power Road. 1 C-2, R-4 BIZ, O-S lot (32.71 ac) Banner Health Systems, an Arizona Corporation, owner; Evans, Kuhn & Associates, Inc., engineer.

- \*b. "MOUNTAIN ESTATES AT LAS SENDAS", – (Council District 5) – 3600-4000 blocks of North Hawes Road (east side) located north and east of Thomas Road and Hawes Road. 36 R1-90 PAD DMP single residence lots (69.52 ac) Sonoran Desert Holdings, L.L.C., Jeff Blandford, President, owner; Wood/Patel, engineer.

11. Items from citizens present.

James L. Fleming, 463 East Brown Road, addressed the Council regarding problems he experienced with the Mesa Police Department subsequent to an automobile accident.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:22 p.m.

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KENO HAWKER, MAYOR

ATTEST:

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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 20<sup>th</sup> day of September 2004. I further certify that the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
BARBARA JONES, CITY CLERK

baa