

COUNCIL MINUTES

March 5, 2001

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on March 5, 2001, at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Jim Davidson
Bill Jaffa
Dennis Kavanaugh
Pat Pomeroy
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Neal Beets
Barbara Jones

Invocation by Reverend Dr. Skip Hughes, First Christian Church (Disciples of Christ).

Pledge of Allegiance was led by Tony Ellenberger, Boy Scout Troop # 557.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that the minutes of the February 15, 20, 22 and 28, 2001 Council meetings be approved.

Carried unanimously.

2. 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 in these minutes with an asterisk (*) were approved with one Council action.

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

Carried unanimously.

3. Consider the following liquor license applications:

*a. SCOTT E. FORKENBROCK, DIRECTOR

Special Event License application for Scott E. Forkenbrock, Director, Mesa Sports Association, a one-day event to be held on Wednesday, March 28, 2001, from 4:00 p.m. to 12:00 Midnight, at Hohokam Stadium, 1235 N. Center Street in Mesa.

*b. SCOTT E. FORKENBROCK, DIRECTOR

Special Event License application for Scott E. Forkenbrock, Director, Mesa Sports Association, a one-day event to be held on Saturday, March 31, 2001, from 4:00 p.m. to 1:00 a.m. at Hohokam Stadium, 1235 N. Center Street in Mesa.

*c. SCOTT E. FORKENBROCK, DIRECTOR

Special Event License application for Scott E. Forkenbrock, Director, Mesa Sports Association, a one-day event to be held on Monday, March 19, 2001, from 4:00 p.m. to 12:00 Midnight, at Hohokam Stadium, 1235 N. Center Street in Mesa.

*d. HARRY D. LUGE, INDIVIDUAL

Person Transfer Bar License for Club Cabo, 30 S. Robson Street. This is an existing business and building. This transfer is from Thomas E. McLean, Individual, Country City. This license will revert back to the State.

*e. HAROLD E. GAUBERT, AGENT

Person and Location transfer Liquor Store License for Southwest Supermarkets, 1244 S. Gilbert Road. This is an existing building. This transfer is from Alan F. Schiff, Agent, Southwest Supermarkets, 5525 N. 19th Avenue in Phoenix.

*f. DONALD A. DAOUD, AGENT

New Beer and Wine Store License for Lotus Market, 361 S. Lindsay Road. This is an existing business and building. The Beer and Wine Store License previously held at this location by Ahdy R. Youssef, Agent, Lotus Market, was closed on February 1, 2001.

*g. GEORGE SHON NICHOLS, AGENT

New Beer and Wine Store License for Texaco Star Mart, 1158 W. University Drive. This is a new building, which is currently under construction, no previous liquor licenses at this location.

*h. JAMES PAUL BLANCHARD, AGENT

New Restaurant License for Charleston's Restaurant, 1623 S. Stapley Drive. This is a new building, which is currently under construction, no previous liquor licenses at this location.

4. Consider the following Bingo application:

- *a Trailer Village
Dan Hird, Manager
3020 E. Main Street
Mesa, Arizona 85213

5. Consider the following contracts:

- *a. Equipment to add five dispatching positions to the 9-1-1 System as requested by the Police Department.

The Purchasing Division recommends authorizing the following purchases:

- Exercise an additional purchase option from RFP #97008A with Plant Equipment, Inc. for five 9-1-1 telephone system work stations and related equipment at \$90,791.15;
- Purchase additional dispatch hardware platforms and an Oracle server license on a sole source basis from Intergraph Public Safety at \$15,114.75; and
- Purchase Zetron station alerting hardware and software from Telecommunications Engineering Associates at \$5,466.13.
- The combined award is then \$111,372.03.

- b. Two replacement asphalt patch trucks as requested by the Street Maintenance Division.

The Purchasing Division recommends accepting the low bid by MHC Sterling at \$252,344.05 including options, extended warranties and applicable sales tax.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Davidson for action on this agenda item.

It was moved by Councilmember Jaffa, seconded by Councilmember Kavanaugh, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

AYES - Davidson-Jaffa-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

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

- *c. One replacement 5-6 cubic yard dump truck for the Street Maintenance Division.

The Purchasing Division recommends authorizing an additional purchase option from RFB#2000139 with the original low bidder, I-10 International, at \$49,724.60 including options, sales tax and extended warranties.

- *d. Shelving for the Main Library Branch.

The Purchasing Division recommends accepting the bid by Arizona School Furnishings at \$48,105.78 including installation and applicable sales tax.

- *e. Replacement logging recorder for the 9-1-1 Dispatch Center as requested by the Police Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Goserco, Inc. at \$137,621.51 including applicable sales tax.

- *f. Two-year renewal of the supply contract for optically controlled traffic control equipment as requested by the Transportation Division.

The Purchasing Division recommends exercising the two-year renewal option with the original low bid by Henberger Traffic Center at \$115,000.00 based on estimated annual purchases.

- g. Early purchase of 47 replacement patrol sedans requested for FY 01-02 budget for the Police Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$1,287,377.00 including applicable sales tax.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that the recommendations of staff be approved.

Carried unanimously.

- *h. InterScan AntiVirus Security Software for Lotus Notes as requested by Information Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with ASAP Software Express, Inc. for a total of \$33,327.00, including applicable use tax.

- *i. Residential Street Lighting. City of Mesa Project Nos. 00-41 and 00-42.

These projects replace existing street lighting in need of upgrading, and install new street lighting where needed to enhance the illumination and safety of these streets. This is a Community Development Block Grant funded project.

Recommend award to low bidder, Utility Construction Company, Inc., in the amount of \$294,861.75 plus an additional \$29,486.18 (10% allowance for change orders) for a total award of \$324,347.93.

- j. Desert Sands Water Line Relocation. City of Mesa Project No. 99-57.1.

This project is part of a continuing phase of a multiple phase project to upgrade water lines in the Desert Sands area.

Recommend award to low bidder, J. Wise Corporation, in the amount of \$776,069.50 plus an additional \$77,606.95 (10% allowance for change orders) for a total award of \$853,676.45.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Davidson for action on this agenda item.

It was moved by Councilmember Pomeroy, seconded by Councilmember Whalen, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

AYES - Davidson-Jaffa-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSTAIN - Hawker

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

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

- *k. 911 Communications Building Electrical Upgrades. City of Mesa Project No. 00-118.

This project will upgrade the 911 building electrical system to meet the needs of the facility for current and planned growth.

Recommend award to low bidder, Arizona Southwest Construction, Inc., in the amount of \$121,935.00 plus an additional \$12,193.50 (10% allowance for change orders) for a total award of \$134,128.50.

- *l. City Well No. 27. City of Mesa Project No. 99-60.

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

Recommend award to low bidder, Zim Industries, Inc., in the amount of \$377,550.00 plus an additional \$37,755.00 (10% allowance for change orders) for a total award of \$415,305.00.

- *m. Twin Knolls Second Communications Building. City of Mesa Project No. 98-46.

This project will construct a new 352 square foot pre-manufactured communications building, a new liquid propane generator, new chain link fence and masonry wall, new sidewalks, new conduit and other miscellaneous site improvements.

Recommend award to low bidder, GSS Companies, Inc., in the amount of \$140,448.00 plus an additional \$14,044.80 (10% allowance for change orders) for a total award of \$154,492.80.

6. Consider the following resolutions:

- *a. Authorizing the City Manager to execute necessary documents to acquire certain real property located at 915 South Olive Street on behalf of A.R.M. of Save the Family – Resolution No. 7626.
- *b. Authorizing the City Manager to sign a Letter of Credit and Promissory Note for \$100,000.00 on behalf of the City of Mesa with National Bank of Arizona – Resolution No. 7627.
- *c. Extinguishing a Public Utilities and Facilities Easement at 1655 South Stapley Drive – Resolution No. 7628.

The easement is no longer needed and is in conflict with the construction of a new Ultimate Electronics store.

- d. Authorizing and directing the City Attorney to institute proceedings to acquire fee simple title in the City of Mesa under the power of eminent domain for the redevelopment of Site 8, Mesa Arts Center – Resolution No. 7630.

Walter Schroeter Jr., 58 South Serrine, addressed the Council relative to this agenda item and expressed concerns regarding the fact that through the process of eminent domain, the City intends to acquire property which currently houses his son's chiropractic office. Mr. Schroeter also commented that additional family-owned properties located at 54, 54 1/2 and 58 South Serrine are not located within the boundaries of the Mesa Arts Center.

City Attorney Neal Beets clarified that although the Schroeter properties are not situated within the footprint of the proposed Mesa Arts Center, they are located within Mesa's designated redevelopment area and that Title 36 of the Arizona Revised Statutes does authorize condemnation of such property. Mr. Beets advised that City staff must perform appraisals of the sites and the owner must be offered a fair and just value. Mr. Beets added that if the property owner is not satisfied with the City's offer, an independent appraisal may be obtained.

Mayor Hawker assured Mr. Schroeter that there are legal remedies which may be pursued if he is displeased with the City's eminent domain proceedings.

Virginia Berg, 2403 East Laurel, spoke regarding the historic Mitton House, which is currently situated on Site 6, and advised the Council that upon the acquisition of an appropriate site, the home will be relocated.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Davidson, that Resolution No. 7630 be adopted.

Carried unanimously.

- *e. Extinguishing a Public Utilities Easement at 4747 South Power Road – Resolution No. 7629.

This easement is no longer needed and is being requested by the property owner.

7. Consider the following ordinance:

- a. Amending Section 11-6-3 of the Zoning Ordinance pertaining to the regulation of pawnshops, tattoo parlors, and body piercing salons – Ordinance No. 3864.

Councilmember Kavanaugh, Chairman of the Police Committee, advised the Council that the purpose of the proposed amendment is the elimination of a grandfather clause contained in a 1998 zoning ordinance which exempted pawnshops, tattoo parlors and body piercing salons from a 1200-foot separation requirement in connection with the expansion and/or relocation of such businesses. Councilmember Kavanaugh explained that Council approval of this agenda item will prevent the clustering or over concentration of the above-mentioned establishments.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Walters, that Ordinance No. 3864 be adopted.

Carl Richardson, 740 East Main Street, voiced opposition to the proposed ordinance and stated the opinion that it is unnecessary to amend the current City Code due to the highly-regulated nature of the pawnshop industry.

Neal Yukolis, 130 West Main Street, concurred with the comments of the previous speaker and expressed the opinion that the proposed amendment creates the appearance of targeting a specific class of businesses which may potentially be displaced by future redevelopment.

Bob DeFabrizio, 221 West Main Street, emphasized the fact that the City Council should not be permitted to dictate the manner in which merchants operate their businesses. Mr. DeFabrizio suggested that the proposed zoning amendment is the direct result of his discussion with Planning Director Frank Mizner wherein Mr. DeFabrizio expressed interest in relocating his pawnshop business to the MeraBank building in downtown Mesa.

Mr. Beets spoke regarding the potential displacement of business owners in the downtown redevelopment area.

In response to a question from Mayor Hawker, Planning Director Frank Mizner clarified that he has never spoken with Mr. DeFabrizio regarding this issue. Mr. Mizner emphasized the fact that the City Code amendment is not specifically directed at Mr. DeFabrizio, but a means by which to modify a 1998 zoning ordinance.

Councilmember Jaffa declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

In response to questions from Vice Mayor Davidson, Mr. Mizner advised that Mesa has a number of facilities, such as homeless shelters, social service agencies, group homes, pawnshops and tattoo parlors, that the Council has determined warrant review and that are also subject to a 1200-foot separation requirement. Mr. Mizner explained that currently, only pawnshops and tattoo parlors are exempt from the 1200-foot separation if the business expands or moves to a new location. Mr. Mizner stated that there is

an exception in the City Code which provides that if a pawnshop/tattoo parlor/body piercing facility chooses to locate within 1200 feet of an existing business, the Council may consider intervening physical features such as an arterial street, a canal or a freeway. Mr. Mizner informed the Council that with the deletion of the current City Code language, the Council may still approve the placement of a new pawnshop within 1200 feet of an existing one, but explained that a Council Use Permit will be required, a public hearing, formal notification to adjacent property owners and also a finding by the Council that there is an appropriate reason for placement of the facility at less than the specified 1200 feet.

Councilmember Walters noted that prior to the passage of the 1998 zoning ordinance, the Council had raised concerns regarding the fact that "Pawnshops, tattoo parlors and body piercing salons may be perceived as a symptom of an area in economic decline and may be linked to an increase in property crimes" and that presently, that perception prevails. Councilmember Walters explained that as a result of the previous ordinance, a monopoly situation has occurred in which pawnshops have been allowed at will to locate to Mesa.

Mr. Mizner spoke regarding the necessary steps to comply with the ordinance.

Councilmember Whalen voiced opposition to the motion and expressed the opinion that the 1998 zoning ordinance adequately addresses the relocation of pawnshops into Mesa and added that there has been a decrease in the proliferation of said businesses. Councilmember Whalen also voiced concerns regarding the inclusion of pawnshops in the ordinance language with tattoo parlors and body piercing salons.

In response to a question from Vice Mayor Davidson, Mr. Mizner advised that if the Council does not approve the ordinance and a pawnshop opts to locate within 1200 feet of another pawnshop, a Council Use Permit will be required, but the business would not be subject to the 1200-foot separation requirement.

Mayor Hawker advised that he will not vote in support of this motion and stated the opinion that in recent years, he has seen a marked improvement in the appearance and operation of Mesa's pawnshops.

Vice Mayor Davidson voiced support for the motion.

Upon tabulation of votes, it showed:

AYES - Davidson-Kavanaugh-Pomeroy-Walters
NAYS - Hawker-Whalen
ABSTAIN - Jaffa

Mayor Hawker declared the motion carried by majority vote of those voting and Ordinance No. 3864 adopted.

8. Conduct a public hearing and consider several gun issues:

- a. Approving the use of gun lockers at City buildings and events.
- b. Approving City park signage prohibiting conspicuous firearm – carry.
- c. Approving a resolution urging the federal Congress to enact federal legislation requiring background checks of all firearm purchases at gun shows – Resolution No. 7631.

- d. Approving a resolution urging the Arizona Department of Public Safety to promptly share with the Mesa Police Department information about background checks of potential firearm purchasers that show an outstanding felony arrest warrant – Resolution No. 7632.

Mayor Hawker announced that this is the time and place for a public hearing regarding the above-listed issues.

The following citizens spoke in opposition to agenda items 8a, b, c and d:

Red Thomas,	1063 South Miller Street, Mesa
Shirley Wheat,	2262 West Del Oro, Mesa
Carma Lewis,	711 North Sulleys Drive, Mesa
Ralph W. Hughes,	667 West Laguna Azul Avenue, Mesa
John Arbon,	4207 East Balsam, Mesa
Jans Tingen,	959 East 10 th Avenue, Mesa
Gary Christensen,	2135 East LaDonna Drive, Tempe
Robert Blackmer,	1945 West Sweetwater, Phoenix
C.D. Tavares,	P.O. Box 400, Morristown
Frank E. Charlier,	519 North Santa Anna, Mesa
Chuck Gray,	7461 East Ivyglen, Mesa

Citizens who spoke in opposition to the proposed issues stated the following opinions:

- There is a difference between a gun owner and a criminal in possession of a gun.
- Firearms purchased at gun shows account for only 2% of guns recovered from any crime scene.
- Only 20% of guns sold at gun shows come from private collectors and are not used during the commission of a crime.
- By taking away the rights of law-abiding citizens to open-carry guns, the City is infringing on an individual's Second Amendment Constitutional rights.
- The enforcement of gun lockers in City buildings will result in citizens being unable to protect themselves.
- Is the City of Mesa willing to assume liability if an individual is required to surrender his/her firearm and a shooting occurs in a City building?
- Signage in City parks prohibiting conspicuous firearm-carry will reduce an individual's ability to defend himself/herself if attacked or to stop the commission of a crime.
- Wherever a "gun free zone" is created, such an area becomes a haven for criminal activity.
- Firearm safety begins with education.
- In the hands of a responsible citizen, a firearm is nothing to fear.
- The City Council should not be in a position to create a safe working environment for criminal activity.
- The most effective deterrent to public shootings is the presence of an armed civilian populous to dissuade criminals.
- The "signage" prohibiting guns in City buildings will not ensure the safety of its occupants.
- Agenda items b and c violate the Arizona Revised Statutes and Agenda item d is a Federal issue which should be addressed by the United States Attorney's Office.
- The proposed agenda items should be based on a certifiable need and not to improve public perception.
- The places with the most stringent gun control are the places that are the least safe.

- The City Council has the obligation to listen to the concerns expressed Mesa's residents.

There being no additional citizens wanting to speak, Mayor Hawker declared the public hearing closed.

City Attorney Neal Beets responded to questions posed by the public speakers and advised that relative to the acquisition of gun lockers, it is anticipated that the City will acquire surplus property from the Arizona National Guard. Mr. Beets stated, however, that staff is not currently seeking Council approval regarding the specifications of the gun lockers, but rather direction relative to the four agenda items.

Mr. Beets commented that it is staff's recommendation that upon entering a municipal building, an individual who is carrying a firearm would remove the firearm from a holster or wherever it is secured, and that individual would place the weapon inside the gun locker, secure the lock and would be given a key. Mr. Beets stated that the gun holder would not be required to provide identification and that the person in possession of the key would be the only person allowed to access the firearm.

- a. Approving the use of gun lockers at City buildings and events.

In response to a question from Councilmember Pomeroy, Mr. Beets advised that Mesa must comply with State law which prohibits firearms in City buildings and that the City must provide a method of safekeeping the firearms. Mr. Beets noted that there is currently signage on City buildings that says "No Firearms Allowed" and if someone attempts to enter a City building with a firearm, Security or a City employee will inform the person that he or she must remove the firearm, and more than likely they do this by taking the firearm back to their car or truck and securing it themselves in order to gain access to the building. Mr. Beets emphasized that 8a will provide a solution to the current law and an efficient method of compliance rather than the utilization of police officers.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Davidson, that the use of gun lockers at City buildings and events be approved.

In response to a question from Vice Mayor Davidson regarding risk assessment, Mr. Beets clarified that staff is cognizant of the most potentially vulnerable City buildings and that the City Manager's Office, Security and Police continue to closely monitor this issue. Mr. Beets stated that metal detectors are currently located in the City Court building and at the main police station. Mr. Beets added that pending Council approval of 8a, verbiage on the signs will be amended.

In response to a question from Councilmember Walters regarding the definition of the word "event," Mr. Beets explained that per State law, the prohibition of firearms applies to public buildings and public events. Mr. Beets informed the Council that currently, Mesa does not prohibit conceal-carry or open-carry of firearms at City-sponsored parades and signature events, but added that if there was the potential for a security risk, staff could elect to provide gun lockers on a case-by-case basis. Mr. Beets added that if an event was sponsored by a non-City entity, there could be the potential for risks.

Councilmember Kavanaugh spoke in support of agenda item 8a and also complimented Shirley Wheat for her input and suggestions regarding gun lockers.

Councilmember Jaffa voiced concerns relative to outdoor events which are not confined to a specific venue such as a municipal building.

In response to a question from Councilmember Whalen, Mr. Beets indicated that event promoters will be required to provide the appropriate security for gun shows held at the Mesa Convention Center.

Councilmember Whalen, a 28-year law enforcement veteran, spoke regarding this issue and stated that he will support the placement of gun lockers in City buildings based on the fact that this action will not inhibit the ability of individuals who possess conceal-carry permits. Councilmember Whalen added that he will support the motion.

Mayor Hawker concurred with the comments of Councilmember Whalen and emphasized that it is a citizen's fundamental right to bear arms, especially those who have received advanced training in order to obtain a conceal-carry permit.

Carried unanimously.

b. Approving City park signage prohibiting conspicuous firearm – carry.

Mr. Beets informed the Council that a recently passed State statute permits Arizona cities and towns to prohibit the open carry of firearms in city parks if appropriate signage is displayed at park entrances. Mr. Beets advised that Council approval of agenda item b will modify the existing signage at the City's 55 parks. Mr. Beets added that State law does not dictate a specific amount of footage which must be maintained between the signs to provide adequate notice. Mr. Beets said that if Council approves agenda item b, staff will seek input from the City of Chandler with regard to signage spacing requirements and the necessity of additional signage.

Councilmember Kavanaugh and Councilmember Pomeroy stated that enforcement of the resolution will be difficult and said that they will not vote in favor of agenda item b.

Vice Mayor Davidson commended the speakers for their persuasive arguments regarding the four agenda items. Vice Mayor Davidson noted that he is supportive of the establishment of areas within the community which prohibit the visual display of firearms. Vice Mayor Davidson said that agenda item b will be difficult to enforce and citizens in City parks will be unprotected, but added that individuals may continue to conceal-carry firearms.

It was moved by Vice Mayor Davidson, seconded by Councilmember Walters, that City park signage prohibiting open-carry firearms be approved.

Councilmember Walters advised that although she will second the motion for discussion purposes, she does not support agenda item b.

Councilmember Walters expressed the opinion that as a result of recent conversations with Mesa mothers who are NRA members and possess conceal-carry permits, she has determined that it would be detrimental to Mesa's children who frequent City parks to support this issue. Councilmember Walters added that she has also been persuaded by Councilmember Whalen's comments regarding the fact that the safety of the City's Park Rangers could be placed at risk and that enforcement would be extremely difficult.

Councilmember Whalen concurred with the comments of Councilmember Walters and added that approval of agenda item b will negatively impact the safety of the City's Park Rangers and police officers in the confrontation of individuals who have a legal right to carry a firearm.

Mayor Hawker stated that he will not vote in favor of the motion.

Upon tabulation of votes, it showed:

AYES - Davidson
NAYS - Hawker-Jaffa-Kavanaugh-Pomeroy-Walters-Whalen

Mayor Hawker declared that the motion failed by majority vote.

Councilmember Jaffa said that City parks, unlike City buildings, are open spaces and not well defined. Councilmember Jaffa added that if agenda item b passed, law-abiding citizens could become easy prey to crime. Councilmember Jaffa also voiced concerns regarding other weapons, such as knives, which were not addressed as part of this agenda item.

- c. Approving a resolution urging the Federal Congress to enact Federal legislation requiring background checks of all firearm purchases at gun shows – Resolution No. 7631.

Vice Mayor Davidson spoke in support of agenda item c, which has been co-sponsored by Arizona Senator John McCain, and advised that the legislation is continuing to receive increased bipartisan support. Vice Mayor Davidson said that throughout the United States, there is a growing trend to limit all purchases at gun shows to those which are regulated by Federally licensed firearm dealers.

It was moved by Vice Mayor Davidson, seconded by Councilmember Jaffa, that the City of Mesa adopt a resolution urging the Federal Congress to enact Federal legislation requiring background checks of all firearm purchases at gun shows.

In response to a question from Mayor Hawker, Mr. Beets clarified that agenda item c will apply to all gun shows in Mesa and not just those held in City facilities.

Mayor Hawker stated that he will support the motion only with regard to gun shows which are held at City buildings. Mayor Hawker added, however, that the organizers of gun shows which are held on private property should have the leeway to determine whether or not they choose to bring in individuals to conduct background checks in addition to Federally licensed firearm dealers.

Councilmember Jaffa clarified that his second to the motion was based on the fact the gun shows will be held in City buildings and not on private property. Councilmember Jaffa noted that he was unclear with regard to the intent of agenda item c. Councilmember Jaffa requested that his second be withdrawn. Mr. Beets advised that as currently written, the Federal legislation would apply to all gun shows.

It was moved by Vice Mayor Davidson, seconded by Councilmember Kavanaugh, that the City of Mesa adopt Resolution No. 7631 urging the Federal Congress to enact Federal legislation requiring background checks of all firearm purchases at gun shows.

Upon tabulation of votes, it showed:

AYES - Davidson-Kavanaugh-Pomeroy-Walters
NAYS - Hawker-Jaffa-Whalen

Mayor Hawker declared the motion carried by majority vote and Resolution No. 7631 adopted.

- d. Applying a resolution urging the Arizona Department of Public Safety to promptly share with the Mesa Police Department information about background checks of potential firearm purchasers that show an outstanding felony arrest warrant – Resolution No. 7632.

It was moved by Councilmember Walters, seconded by Vice Mayor Davidson, that the City of Mesa adopt Resolution No. 7632 urging the Arizona Department of Public Safety to promptly share with the Mesa Police Department information about background checks of potential firearm purchasers that indicate outstanding felony arrest warrants.

In response to a question from Councilmember Whalen, Police Chief Jan Strauss advised that although she has not spoken directly with Dennis Garrett, Director of the Department of Public Safety (DPS), regarding the resolution, she anticipates that the City will receive the full cooperation of DPS in this matter.

Mayor Hawker declared the motion carried unanimously and Resolution No. 7632 adopted.

Mayor Hawker thanked all the speakers for their input.

(Mayor Hawker declared a recess at 8:00 p.m. The meeting reconvened at 8:25 p.m.)

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

- a. **Z00-85** 3931 North Higley Road. Rezone from R1-90 to M-1 PAD (8± acres). This case involves the development of a four-lot industrial subdivision. Charles Poulson for Mission Bell Properties, Inc.; owner; Sean Lake, applicant – Ordinance No. 3865. **A ¾ VOTE IS REQUIRED TO APPROVE THIS CASE.**

P&Z Recommendation: Approval with conditions (vote: 5-2; Bailey, Parker nay).

1. Compliance with the basic development as described in the project narrative and Design Guidelines, and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans for all lots.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Solid Waste and Facilities, and Traffic Engineering, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
6. Compliance with letter dated January 9, 2001 from Sean Lake which includes installation of an 8-foot high screen wall between lots one and two, and along south property line in the first phase of development.
7. Installation and planting of a 15-foot landscape strip with 24" box trees along the east side of lot one in the first phase of development.
8. Compliance with all requirements of the Subdivision Technical Review Committee.
9. Compliance with all requirements of the Design Review Board for all lots.

10. 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).
11. Fully screen and sound attenuate the dust collector mechanism from view and face all exhaust fans towards Higley Road.
12. Provide a full drainage report that includes the entire watershed coming onto the site.
13. Fully improve the private street to City standards with a 40' asphalt width, curb, and sidewalk (minimum one side).
14. All outdoor storage to be fully screened from residences and Higley Road.
15. Compliance with letter dated November 21, 2000 from Sean Lake which includes agreements regarding shielding of lights, compliance with City of Mesa Noise Ordinance, equipment noise only between the hours of 6:00 a.m. and 7:00 p.m., and dust control of all areas used by vehicles.
16. Note all unbuildable and unusable portions of the lots, to be submitted with initial building permit application and noted on the subdivision plat.
17. No use of lots 2-4 (including vehicle storage or maneuvering, materials storage or temporary/permanent structures) prior to site plan approval and issuance of necessary permits.
18. Any usage of lot 2 requires site improvements including perimeter wall and landscaping.

Charlene Lewis, 3921 North Higley Road, a resident of the neighborhood, voiced concerns regarding the development of the surrounding property, equipment noise and the proposed hours of operation.

Dorothy Johnson, 3923 North Higley Road, also spoke in opposition to the development of the industrial subdivision, and said that it is imperative that the applicant comply with all of the recommendations of the Planning and Zoning Board.

Sean Lake, an attorney for the applicant, addressed the Council and provided background information relative to this case. Mr. Lake explained that the applicant has agreed to a variety of stipulations as a means by which to mitigate the development's impact on the surrounding neighborhood. Mr. Lake detailed some of the stipulations including: directing the exhaust system in a westerly direction away from the residents; installing a muffler on the exhaust system; screening the muffler facility; shielding the lighting in a downward direction; incorporating a 15-foot landscape buffer around the site to be developed when each parcel is developed; installing a wall around the perimeter of the property to be developed as each property is developed, and limiting the hours of noise-producing operation from 6:00 a.m. to 7:00 p.m.

Mr. Lake referred to graphics displayed in the Council Chambers and provided a brief overview of the proposed four-lot industrial development. Mr. Lake emphasized the fact that the site is located within Mesa's General Plan for general industrial, but unlike The Commons, which was developed adjacent to an existing legal residential subdivision, the surrounding residential neighborhood is not in compliance with Mesa's General Plan. Mr. Lake stated that upon the completion of the 202 Freeway at Higley Road, this area of the City will become a prime location for industrial development and stated the opinion that the residential area will eventually be converted for such purposes.

Mr. Lake advised that with regard to Condition 13, "Fully improve the private street to City standards with a 40' asphalt width, curb and sidewalk (minimum one side)," it is the opinion of the applicant that the inclusion of a sidewalk is not necessary and requested that the private drive be improved per City standards.

In response to questions from Councilmember Walters, Planning Director Frank Mizner advised that although the subject property is currently designated as general industrial, the City has maintained the R1-90 designation which was inherited from Maricopa County. Mr. Mizner explained that in the future, should this property transition to an industrial park, Council approval will be required to modify the Planning and Zoning Board's recommendation regarding the hours of noise-producing operation and dust control measures.

Discussion ensued relative to the fact that the applicant has entered into additional stipulations with the neighborhood residents including an agreement not to develop in the adjacent wash or on the mountain, not filling the wash and agreeing to limit the building coverage for the building pad on Parcel #4.

Councilmember Walters stated the opinion that the site is interesting terrain for industrial development and also voiced concerns regarding the potential noise impacts on the surrounding residents. Mr. Lake further discussed proposed noise mitigation plans.

In response to a comment from Councilmember Walters regarding the confusing nature of this agenda item, Mr. Mizner acknowledged that staff initially recommended approval of the case with approximately 20 conditions, of which the Planning and Zoning Board implemented various modifications and deletions. Mr. Mizner also emphasized the fact that although sidewalks are not required on private streets, it is often advantageous to include them. Mr. Mizner added that Condition 13 was included in staff's original recommendations, was not deleted by the Planning and Zoning Board and was not contested by Mr. Lake. Mr. Mizner noted that Condition 13 is included in the list of recommendations and that any deletions to the ordinance will require that a revised ordinance be presented for introduction at a future Council meeting.

City Attorney Neal Beets responded to questions from the Council relative to the legal requirements to modify the proposed ordinance.

Councilmember Kavanaugh concurred with staff's recommendations regarding the installation of a sidewalk to allow access to the buildings by future workers, handicapped and wheel chair bound individuals. Councilmember Kavanaugh emphasized that several staff recommendations which were deleted by the Planning and Zoning Board merit further discussion, including the installation of a perimeter wall and landscaping. Councilmember Kavanaugh said that these improvements will provide the residents with visual enhancements and also attract prospective businesses to the site.

Mayor Hawker said that although he strongly supports industrial development, the existing residents must be afforded greater sensitivity with regard to potential operational and dust collection noises. Mayor Hawker also questioned whether the dust collector mechanism directed towards Higley Road will sufficiently mitigate the sound emitted from the facility.

Councilmember Pomeroy concurred with the comments of Mayor Hawker and suggested that a noise study be conducted to provide the Council and the residents with some assurance that the noise will not be an ongoing annoyance. Councilmember Pomeroy added that although the area has been zoned as general industrial within the City's General Plan, the residents' concerns must still be addressed.

In response to comments expressed by Councilmember Pomeroy, Mr. Lake clarified that the applicant has agreed to remain in compliance with the City's noise ordinance, particularly the designated decibel level at the property line.

Mr. Beets discussed the fact that the City's General Plan permits industrial zoning at the subject property, but said that there are also residential homeowners who enjoy the benefits of the R1-90 zoning designation. Mr. Beets stated that the Council must exercise its judgment and discretion to arrive at a compatible solution for both the residents and the applicant.

Councilmember Jaffa stressed the fact that a proper balance must be achieved regarding this case and said that strong consideration must be given to the area residents. Councilmember Jaffa also stated that it is imperative that the noise mitigation issue be properly addressed and resolved.

Discussion ensued relative to landscape setbacks and sidewalk requirements.

Councilmember Jaffa urged staff to examine landscaping policies in an effort to exceed current requirements. Councilmember Jaffa requested that staff provide a sufficient amount of setback landscape buffer on the north side of the property.

Vice Mayor Davidson commented on the fact that this zoning case is difficult to resolve because of the established residences in the neighborhood and the fact the site has received a general industrial zoning designation. Vice Mayor Davidson thanked the applicant for his efforts relative to noise mitigation and urged staff to conduct a noise analysis study as recommended by Councilmember Pomeroy.

It was moved by Vice Mayor Davidson, seconded by Councilmember Pomeroy, that Zoning Case Z00-85 be approved and Ordinance No. 3865 be adopted.

Discussion ensued relative to a potential two-week continuation of the case to amend the ordinance; the fact that the applicant will enter into a contractual deed restriction on the property to modify the hours of operation, and setbacks.

Mayor Hawker stated his support for the motion, but encouraged the applicant to work with the area residents to ensure that the proposed industrial development is as non-intrusive as possible.

Mayor Hawker declared the motion carried unanimously and Ordinance No. 3865 adopted.

*b. **Z01-01** 1107 South Center Street. Council Use Permit for a day labor hiring center (.5± acres). David Misak, Workforce 2000 President, Kenneth Howard, property owner; C. Ames Thompson, applicant – Ordinance No. 3861.

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

1. Compliance with the basic development as shown on the site plan and described in the project narrative.
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. The facility shall be secured at night to discourage overnight use.

- c. **Z01-02** Parkwood Ranch Parcel 16. South and east of the southeast corner of Crismon and Broadway. Rezone from R1-9-DMP (conceptual R-3) to R1-6-PAD-DMP (11± acres). This case involves development of a residential subdivision. Southwest LLC; owner/applicant represented by: Matthew Montgomery – Ordinance No. 3866.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield) except as noted below.
2. Compliance with the Residential Development Guidelines regarding building design.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
6. Compliance with all requirements of the Subdivision Technical Review Committee.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Pomeroy, that Zoning Case Z01-02 be approved and that Ordinance No. 3866 be adopted.

Vice Mayor Davidson voiced concerns regarding the construction of residential subdivisions in the vicinity of an electrical transmission right-of-way and stated that he will not support the motion.

Alan Copeland, 10108 East Capri, a representative of the Concerned Citizens of Parkwood Ranch, thanked the Council for responding to the concerns expressed by the residents in the surrounding area. Mr. Copeland requested that a letter be entered into the record relative to the case.

In response to a question from Mayor Hawker, Planning Director Frank Mizner clarified that the letter which was referenced by Mr. Copeland will be placed in the zoning file and will be enforced during subdivision review. Mr. Mizner advised that the letter addresses restrictions regarding one-story versus two-story homes.

Upon tabulation of votes, it showed:

AYES - Hawker-Jaffa-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - Davidson

Mayor Hawker declared the motion carried by majority vote and Ordinance No 3866 adopted.

- *d. **Z01-03** The southeast corner of Val Vista and Enid. Rezone from C-2 to R2-PAD (11± acres). This case involves development of a residential subdivision. R&B Sarhangian Family Trust owner/applicant; represented by: Ted Sarhangian. **THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE APRIL 2, 2001 COUNCIL MEETING.**

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of unit yield) except as noted below.
2. Compliance with the Residential Development Guidelines regarding elevation design and landscape setback at the public streets.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Secondary access as proposed on South 37th Street shall be relocated northwestward along Enid Street, subject to review and approval of revised site plan and preliminary plat during the subdivision review process.

- *e. **Z01-05** 3815 East Huber. Rezone from AG to R1-35 (4.3± acres). This case involves the development of two custom home lots. Ken and Bettye Armistead; owner, Raymond M. Nitti, applicant – Ordinance No. 3862.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, except as noted below.
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. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, or at the time of the City's request for dedication, whichever comes first.
5. All street improvements to be installed in the first phase of construction.
6. Compliance with all requirements of the land split process.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City, prior to the issuance of a building permit.
8. Noise attenuation measures be incorporated into the design and construction of any new homes to achieve a noise level reduction of 25 dB.
9. Provide notice to future residents that this property is within one mile of Falcon Field Airport.
10. Compliance with the letter from Raymond M. Nitti dated December 18, 2000 regarding the retention of the citrus on the lot.
11. The removal of at least one of the homes on the current site; application for a Special Use Permit must be made to request retaining the second home as an Accessory Living Quarters. If the Special Use Permit is not approved, the second home must also be removed.

- *f. **Z01-06** Parkwood Ranch Parcels 18, 19, and 22. Modification of a Development Master Plan and rezone from R1-9 & PF (conceptual R-3 and C-2) to R-3-DMP and C-2-DMP &

PF (50± acres). This case involves establishment of zoning districts. Southwest LLC; owner/applicant represented by: Matthew Montgomery – Ordinance No. 3863.

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

1. Compliance with the basic development as shown on the Development Master Plan except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
4. Submittal of a revised Master Plan for Parkwood Ranch by the effective date of the Ordinance.

- g. **Z00-65** North of the northwest corner of Sossaman Road and Germann Road. Site Plan Review (20± acres). This case involves the development of a concrete batch plant. Olympia Investments, owner, represented by: Francis J. Slavin; AGRA Infrastructure, applicant, represented by: Greg Davis. **CONTINUED FROM THE JANUARY 8, 2001 COUNCIL MEETING.**

Recommendation: Denial. (vote 6-0)

Councilmember Jaffa declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

Norman Nicholls, a representative of Fulton Homes, 9140 South Kyrene, Tempe, addressed the Council relative to this case. Mr. Nicholls reiterated comments made at the January 8, 2001 Council meeting and noted that the cement batch plant traffic will converge at the intersection of Germann Road and Sossaman Road, the site of Fulton Homes' 1300-unit residential community. Mr. Nicholls also expressed concerns regarding approximately 640 truck trips per day and stated the opinion that the commercial traffic will be very detrimental to the residential neighborhoods.

Wendy Feldman-Kerr, Mayor of the Town of Queen Creek, also addressed the Council and voiced strong opposition to the case. Mayor Feldman-Kerr concurred with the comments of the previous speaker and stated the opinion that the cement batch plant will significantly detract from the entryway to the Town of Queen Creek and will not reflect the rural character of the community. Mayor Feldman-Kerr encouraged the Council to deny the case, but said that if the case is approved, she would request that the Pecos Road improvements are completed prior to the issuance of a Certificate of Occupancy. Mayor Feldman-Kerr explained that the road improvements will provide an alternate route for the cement trucks. Mayor Feldman-Kerr urged the Council to permit her staff to provide input regarding the design of the exteriors walls to ensure that a positive visual image is created.

Bill Heath, Councilmember of the Town of Queen Creek, reiterated his comments from the January 8, 2001 Regular Council meeting and said that the cement batch plant was originally zoned when the area was primarily farmland. Councilmember Heath added that the heavy truck traffic will flow through the residential area of the Town of Queen Creek and its Town Center and negatively impact the entire community.

John Kross, Community Development Director for the Town of Queen Creek, voiced his concerns regarding this issue and thanked City staff and the Council for their efforts in this matter. Mr. Kross expressed strong support for the conceptual zoning plan, with the exception of the 20-acre C-2 site proposed for the southwest corner of Pecos Road and Ellsworth Road. Mr. Kross noted the site's close proximity to the Town Center area and the entranceway to the Town of Queen Creek. Mr. Kross stated that the Town of Queen Creek supports the alignment of Pecos Road, which will be a catalyst for development in the area and will assist the Town in implementing its industrial land uses within that corridor.

Francis Slavin, an attorney representing the applicant, 2198 East Camelback Road, addressed the Council and provided background information relative to this case. Mr. Slavin explained that the site of the proposed concrete batch plant was originally located in Maricopa County and zoned industrial, and said that upon annexation by the City of Mesa in 1990, an equivalent M-2 zoning designation was issued. Mr. Slavin advised that under the current M-2 zoning, the proposed use is permitted and under State law, all uses are required to be uniform in all of the districts which are zoned M-2.

Mr. Slavin stated that in an effort to address the concerns of City staff and the Town of Queen Creek, the applicant has agreed to a series of conditions including: acquiring right-of-way to assist the City's efforts in the paving of Pecos Road and other roadways in the area to allow for a greater disbursement of traffic; extending the water lines to the cement batch plant property; constructing walls to shield the property; complying with City height standards; planting mature landscaping to make the site more compatible with the surrounding area; limiting the number of cement truck trips that will travel through the center of the Town of Queen Creek, and ensuring that materials brought to the site will not travel through the Town Center area. Mr. Slavin discussed the applicant's willingness to work with the City relative to the timing of the proposed improvements to Pecos Road and to adhere to hauling plans and hauling routes. Mr. Slavin said that the applicant is also willing to meet the City's deadlines with regard to improving the area.

In response to questions from Mayor Hawker relative to the City's proposal to improve Pecos Road, Planning Director Frank Mizner advised that since the January 8, 2001 Council meeting, staff has been attempting to resolve this case and has focused its attention on three separate issues: the development of a draft ordinance which would encompass a number of conditions of approval; a conceptual land use plan for the overall area, and infrastructure plans for Sossaman Road and Pecos Road and the implementation of water and sewer service to the property. Mr. Mizner explained that City staff has conferred with the applicant, property owners, staff from the Town of Queen Creek, Megacorp and Williams Gateway Airport, and said that should the proposed plans move forward, the result would be an expansion of the entire area. Mr. Mizner noted that a major obstacle has been a lack of infrastructure, including roads and sewer and water capacity. Mr. Mizner said that it is the opinion of staff that the City does not favor interim septic tank service, and if industrial development is going to occur in Mesa, it should be hooked up to the City sewer system. Mr. Mizner added that the alignment of Pecos Road will provide the cement trucks from the cement batch plant with alternative travel routes and lessen the traffic that would travel through the Town of Queen Creek. Mr. Mizner stated that if Council determines that staff should continue its efforts with regard to this case, an ordinance could be prepared and placed on the agenda of the March 19th Council meeting for introduction and consideration.

Neighborhood Services Manager Wayne Balmer referred to graphics displayed in the Council Chambers and provided a brief overview of this case. Mr. Balmer explained that because of his involvement in the development of Williams Gateway Airport, the City Manager requested that he explore options with regard to an alignment for Pecos Road between Power Road and Ellsworth Road. Mr. Balmer stated that

at the present time a road does not exist, but the construction of such a road would alleviate concerns expressed by the Town of Queen Creek regarding increased truck traffic from the cement batch plant and also provide needed services within Mesa to the area south and east of Williams Gateway Airport. Mr. Balmer advised that the alignment would consist of a two-lane road with right and left-turn lanes at the main intersections, and said that underneath the road a new sewer line would be installed from Power Road to Ellsworth Road and would allow the City to bypass a lift station that was installed several years ago for TRW.

Discussion ensued relative to the fact that staff is seeking direction to proceed with an engineering and conceptual plan with regard to the proposed Pecos Road alignment; the fact that staff will present a revised ordinance for Council review at the March 19, 2001 Regular Council meeting; the fact that there is an estimated 18 to 24-month timetable for the completion of road construction and the installation of water and sewer lines; the fact that preliminary costs for the completion of the associated infrastructure is estimated at \$3.8 million, and relative to the legal concept of "use by right" with regard to zoning issues.

Mayor Hawker acknowledged the fact that the applicant has attempted to work with the City and the Town of Queen Creek to achieve a reasonable compromise regarding this case. Mayor Hawker also voiced support for a continuance of the case until March 19th to allow staff additional time to develop an amended ordinance.

Councilmember Walters thanked the speakers from the Town of Queen Creek for their input.

Dennis Barney, 1075 North Honeysuckle Lane, Gilbert, the applicant, addressed the Council and advised that he is proposing to transport the aggregate material around the Town of Queen Creek to the batch plant. Mr. Barney explained that once the material has been prepared at the plant, the trucks will deliver the cement utilizing the proposed Pecos Road alignment to access Power Road and Ellsworth Road and then will continue onto Rittenhouse Road in an effort to avoid the Town of Queen Creek. Mr. Barney added that the trucks will travel through the Town of Queen Creek only if there is a Bill of Lading which indicates that materials are needed in any of the Town's new construction subdivisions.

In response to a question from Councilmember Walters, City Attorney Neal Beets advised that a condition which would restrict the transport of aggregate material and the cement produced at the batch plant may be included in a traffic plan.

Councilmember Walters voiced support for a continuation of the zoning case and expressed concerns with regard to industrial cement trucks traveling through the Town of Queen Creek if the Pecos Road alignment is not completed within 24 months. Councilmember Walters added that she supports staff proceeding with an engineering and conceptual plan for the Pecos Road alignment.

Vice Mayor Davidson stated that he would vote in favor of the continuance, but emphasized the fact that the zoning case should be considered as a separate issue from the Pecos Road alignment.

Discussion ensued relative to airfield overlay district issues; the fact that the applicant has agreed that all batch plant structures will be kept below the 40 foot industrial zone height limit, and the fact that Circle G has met with the Maricopa County Flood Control District and is working out a dedication of additional right-of-way in exchange for obtaining a rail line into the property.

Vice Mayor Davidson expressed concerns regarding the extensive opposition to the cement batch plant and also questioned whether the site is appropriate for this type of business.

Councilmember Pomeroy commented that although the applicant has attempted to mitigate the concerns of the City and the Town of Queen Creek, he would like additional input from staff regarding this issue. Councilmember Pomeroy added that the concerns of the Town of Queen Creek must be taken into consideration in developing the revised ordinance.

It was moved by Councilmember Pomeroy, seconded by Councilmember Whalen, that Zoning Case Z00-65 be continued until the March 19th, 2001 Regular Council Meeting.

Councilmember Kavanaugh commented that although he will support the motion for a continuance, it should not be interpreted as support for the underlying zoning case. Councilmember Kavanaugh explained that it is rare for the City to have a zoning case which is opposed by the Planning and Zoning Board, City staff, the higher education community, Williams Gateway Airport and neighboring communities and added that he has reservations regarding the proposed location of the cement batch plant. Councilmember Kavanaugh also questioned the compatibility of the proposed use with the intent of the City's General Plan, the General Plan for the Town of Queen Creek and with adjacent uses within the community.

Councilmember Whalen thanked staff for their efforts in this case and commended the Council for their willingness to further negotiate this matter.

Mayor Hawker stressed the importance of ensuring that the visual appearance of the cement batch plant is appealing and also that the Town of Queen Creek be afforded the opportunity to provide input with regard to wall designs.

Upon tabulation of votes, it showed:

AYES - Hawker-Davidson-Kavanaugh-Pomeroy-Walters-Whalen
NAYS - None
ABSTAIN - Jaffa

Mayor Hawker declared the motion carried unanimously by those voting.

Mayor Hawker thanked the speakers for their input.

10. Consider the following subdivision plats:

- *a. "SUPERSTITION LAKES – UNIT 3" (Council District 6) The 6500 block of East Superstition Springs Blvd. (south side) 32 C-2-BIZ-CUP-DMP condominium units (1.9 ac.) UP Superstition Springs, Inc. developer; Val-Tec, Inc., engineer.
- *b. "THE COURT AT THE COMMONS" (Council District 2) The 2800 block of North Norwalk (west side) 32 M-1 PAD industrial lots (5.7 ac.) Reeb Group, Ltd. developer; Ace Engineering, Inc., engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 10:15 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 5th day of March 2001. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 2001

BARBARA JONES, CITY CLERK

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