



COUNCIL MINUTES

May 5, 2003

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 5, 2003 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Dennis Kavanaugh
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

STAFF PRESENT

Mike Hutchinson
Debbie Spinner

Invocation by Councilmember Kyle Jones.

Pledge of Allegiance was led by Chandler Evans, Boy Scout Troop No. 957.

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.

General Plan Amendment Process Update.

Acting Planning Director Dorothy Chimel reported that on June 24, 2002, the City Council unanimously approved the Mesa 2025 General Plan, followed in November 2002 by voter approval of the Plan. She explained that there are two processes (Major and Minor Amendments) used by the City of Mesa to modify or change the land use components of the General Plan. Ms. Chimel stated that a Major Amendment to the General Plan is defined as any proposal that meets any of the following criteria: 1. Any change in a residential land use classification of 40 or more contiguous acres to another land use classification; 2. Any change in a non-residential land use classification of 20 or more contiguous acres to a residential land use classification; 3. Any proposal that in the aggregate includes changes in land use classification of more than 320 acres described in the General Plan, and 4. Any modification of a planned freeway, expressway, parkway or limited arterial street shown in the General Plan.

Ms. Chimel advised the Council that May 9, 2003 is the deadline for individuals to file a Major Amendment Application to the Mesa 2025 General Plan and added that all of the documents needed to complete the process are available through the Planning Division staff or via the City's web site.

Presentation of 2003 Historic Preservation Awards.

Vic Linhoff, Chairman of the Historic Preservation Committee, provided brief background information relative to the 2003 Historic Preservation Awards. He explained that the Committee, with input from the community, evaluates individuals and groups involved in several different categories. Vice Mayor Kavanaugh assisted Mr. Linhoff in presenting the following honorees with their awards: Virginia Agüero, Outstanding Achievement in Citizen Activism; Arlene McCabe, Outstanding Achievement in Rehabilitation, and Walt and Elaine McIver, Outstanding Achievement in Citizen Activism.

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 Kavanaugh, seconded by Councilmember Walters, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the April 3 and April 21, 2003 City Council Meetings.

3. Conduct a public hearing for the following annexations.

- a. **A03-4** Annexing the northeast corner of North Sossaman Road and East Willetta Street (1.62± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of the northeast corner of North Sossaman Road and East Willetta Street.

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

- b. **A03-6** Annexing the northeast corner of North Dobson Road and West Brown Road (17± acres). Initiated by the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed annexation of the northeast corner of North Dobson Road and West Brown Road.

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 the Power Road Scalloped Street Assessments, City of Mesa Project No. 02-09. (See backup information for Item #7b)

Mayor Hawker announced that this is the time and place for a public hearing regarding the Power Road Scalloped Street Assessments. City of Mesa Project No. 02-09.

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

4. Consider the following liquor license applications:

*a. DANIEL JOSEPH MARTIN, GENERAL MANAGER

Special Event License application of Daniel Joseph Martin, General Manager, Good Life MHC, a one-day civic event to be held Wednesday, December 31, 2003, from 5:30 p.m. to 1:00 a.m., at 3403 East Main Street, Good Life MHC.

*b. DANIEL JOSEPH MARTIN, GENERAL MANAGER

Special Event License application of Daniel Joseph Martin, General Manager, Good Life MHC, a one-day civic event to be held Friday, January 23, 2004, from 12:00 noon to 5:00 p.m., at 3403 East Main Street, Good Life MHC.

*c. DANIEL JOSEPH MARTIN, GENERAL MANAGER

Special Event License application of Daniel Joseph Martin, General Manager, Good Life MHC, a one-day civic event to be held Tuesday, March 16, 2004, from 5:00 p.m. to 10:30 p.m., at 3403 East Main Street, Good Life MHC.

d. AGUSTINA S. ESPINO, COORDINATOR

Special Event License application of Agustina S. Espino, Coordinator, Queen of Peace Church, a one-day religious event to be held Saturday, May 10, 2003, from 6:00 p.m. to 11:59 p.m., at 141 North Macdonald Street, Madonna Hall – Queen of Peace Church.

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

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

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

*e GARY NOLAN WALSMITH, ETAL

New Restaurant License for Joey's Dry Dock, 2706 East University Drive, Suite F6-7. The Restaurant License previously held at this location by Barbara A. Baxter, Individual, Joey's Dry Dock, will revert back to the State.

5. Consider the following contracts:

*a. Chlorine gas detectors as requested by the Parks & Recreation Division.

The Purchasing Division recommends accepting the bid by Engineered Sales Company at \$10,118.16 including applicable sales tax.

*b. One replacement copier for the Economic Development Office.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Ikon Office Solutions at \$16,728.48 including applicable sales tax.

*c. Digital darkroom equipment for the Police Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with CLH International for \$14,371.65.

*d. Pool filtration systems and water analyzers as requested by the Parks & Recreation Division.

The Purchasing Division recommends accepting the low bid by Aquatic Environmental Systems, Inc. at \$169,861.85 including applicable sales tax.

*e. File Server Backup and Recovery System as requested by the Information Services Division (ISD).

The Purchasing Division recommends authorizing purchase of hardware and software from the State of Arizona contract with CompuCom Systems, Inc. for a total of \$457,827.95.

*f. One-year renewal of the supply contract for automotive lubricant and oil products as requested by Fleet Support Services.

The Purchasing Division recommends authorizing the one-year renewal from the State of Arizona contract with Chevron USA for annual purchases estimated at \$88,852.88.

g. 2003 Residential Street Reconstructions. City of Mesa Project No. 01-841-002.

This project proposes to reconstruct over 242,000 square yards of residential street pavement, rehabilitating half of the residential streets in the area bounded by 8th Avenue, Stapley, US 60, and Lindsay.

Recommend award to low bidder, Nesbitt Contracting Co., Inc., in the amount of \$2,639,108.00 plus an additional \$263,910.80 (10% allowance for change orders) for a total award of \$2,903,018.80.

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 Kavanaugh for action on this agenda item.

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

- *h. Neighborhood Street Lighting (CDBG #8265 & #8091), Horne to Stapley Drive & 2nd Street to Main Street, and Mesa Drive to Horne & 2nd Avenue to Main Street, and Nina Drive for 300 feet north of Broadway. City of Mesa Project Nos. 01-53 & 99-77.1.

This project proposes to 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, Contractors West, Inc., in the amount of \$247,829.20 plus an additional \$24,782.92 (10% allowance for change orders) for a total award of \$272,612.12.

6. Introduction of the following ordinances and setting May 19, 2003 as the date of public hearing on these ordinances:

- *a. Relating to sewer charges for customers not connected to the public sewer system; amending Title 8, Chapter 4, Section 10 of the Mesa City Code.
- *b. Modifying the irrigation water service rate schedules.
- c. Prohibiting Left Turns From Driveway: 10-3-15

Remove the westbound left-turn prohibition from the east side of Dobson Road at the northernmost driveway of Mesa Community College.

The south side of McKellips Road from the driveway with centerline approximately 800 feet east of Lindsay Road (between 7:30 am and 3:30 pm, Monday through Friday).

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

On the north side of Decatur Street from Power Road to a point 240 feet east of Power Road.

On the north side of Decatur Street from a point 650 feet east of Power Road to a point 1,084 feet east of Power Road.

On the south side of Decatur Street from Power Road to a point 315 feet east of Power Road.

Speed limits: 10-4-4 (50 mph), 10-4-3 (45 mph), 10-4-4 (40 mph), 10-4-3 (35 mph), and 10-4-2 (30 mph)

Reduce the speed limit from 50 mph to 45 mph on Ellsworth Road from US 60 to Guadalupe Road.

Increase the speed limit from 35 mph to 45 mph on Greenfield Road from a point 600 feet south of Virginia Street to the north City limits.

Reduce the speed limit from 45 mph to 35 mph on Higley Road from Thomas Road to a point 150 feet north of Thomas Road.

Reduce the speed limit from 40 mph to 35 mph on Higley Road from a point 150 feet north of Thomas Road to a point 650 feet north of Thomas Road.

Increase the speed limit from 30 mph to 35 mph on Higley Road from a point 650 feet north of Thomas Road to the north City limits.

Mayor Hawker advised that this item was removed from the consent agenda at the request of Councilmember Thom.

Councilmember Thom voiced a series of concerns relative to prohibiting left turns from the southernmost driveway on the east side of Ellsworth Road and south of Baseline Road into the Albertson's grocery store parking lot, and a reduction in the speed limit from 50 mph to 45 mph on Ellsworth Road from US 60 to Guadalupe Road. She noted that relative to the Guadalupe/Ellsworth speed limit issue, Ellsworth Road south of the intersection becomes a County road with a speed limit of 55 mph and commented that the proposed reduction would create a 10 mph difference between the County and City areas. Councilmember Thom added that an unfortunate accident occurred in the area which was not caused by speed, drugs or alcohol, and said that she doubted that a reduction in the speed limit would actually reduce the incidence of accidents in the area.

In response to Councilmember Thom's concerns, Traffic Engineer Alan Sanderson clarified that at a recent meeting with the Transportation Advisory Board, staff had made two recommendations to the Board, including the reduction of the speed limit on Ellsworth Road, as well as the prohibition of left turns from the current Albertson's driveway and a future driveway that is planned on the west side of the road. He advised that the Board voted to defer consideration of the left-turn prohibition for two months to enable the attorneys for both

properties to conduct further research and added that the Board will reconsider the issues at its July meeting.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, to approve agenda item 6c as read into the record by Mayor Hawker.

Councilmember Griswold suggested that the agenda item relative to reducing the speed limit from 50 mph to 45 mph on Ellsworth Road from US 60 to Guadalupe Road be considered separately by the Council at the May 19, 2003 public hearing regarding the proposed ordinances.

Councilmember Thom concurred with Councilmember Griswold's proposal.

Vice Mayor Kavanaugh and Councilmember Walters agreed to amend their motion to include Councilmember Griswold's suggestion.

Carried unanimously.

- *d. Amending Sections of the Uniform Building Administrative Code to eliminate the current requirement to obtain permits and inspections for specific types of replacement and new appliances in residential households.

7. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an Intergovernmental Agreement between the Celebration Christian Center Street Lighting Improvement District and the City of Mesa for the operation and maintenance of street lighting facilities located at 1010 South Ellsworth Road, outside Mesa City limits – Resolution No. 8005.
- b. Approving the final assessments for the Power Road Scalloped Street Assessment Project No. 02-09 – Resolution No. 8012.

This project installed street improvements along portions of North Power Road from McKellips Road to Delmon.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that Resolution No. 8012 be adopted.

Carried unanimously.

- *c. Authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between Villages at Hawes, LLC, an Arizona Limited Liability Company, and the City of Mesa, for the reimbursement of regional offsite improvements that are being required by Mesa, in conjunction with the proposed development of Villages at Hawes which is located at 3055 South Hawes Road – Resolution No. 8006.
- *d. Authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between AAA Investment Company, and the City of Mesa, for the reimbursement of regional offsite improvements that are being required by Mesa in

conjunction with the proposed development of ATKO Building Materials, which is located at 1146 South Serrine – Resolution No. 8007.

- *e. Vacating a portion of the right-of-way at 2515 North Horne – Resolution No. 8008.

The right-of-way is no longer needed.

- *f. Granting the sale of City property on North Center Street – Resolution No. 8009.

- *g. Authorizing the City Manager to execute an Intergovernmental Agreement between the Flood Control District of Maricopa County and the City of Mesa, for the rights-of-way acquisition of the Spook Hill Area Drainage Master Plan Detention Basins – Resolution No. 8010.

- *h. Approving the assessments for McKellips Road from Country Club Drive to Gilbert Road; Scalloped Street Assessment District No. 95-12 & 95-12.1– Resolution No. 8011.

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

- *a. **Z03-10** 1945 and 1955 South Val Vista Road (2.6± acres). Site Plan Modification. This case involves the development of office buildings. Val Vista Gateway, LLC, owner; Brian Moore, BCMA Architecture, applicant – Ordinance No. 4063.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count, lot coverage), 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. All street improvements and perimeter landscaping to be installed in the first phase of construction.
5. Compliance with all requirements of the Design Review Board. Add two feet to the top of the wall between the subject sites property line and that of all the houses on the northeast property line with the first phase of development.

- b. **Z03-13** 1050 West Main Street (0.95 acre±). Council Use Permit. This case involves the development of a pawnshop. Robert Kathe, owner; Jeff Landrum, applicant.

P&Z Recommendation: Denial (Vote: Passed 6-1, Carpenter voting nay).

Jeff Landrum, 1002, West 6th Street, the applicant, addressed the Council relative to this agenda item. He provided a brief historical overview of his pawnshop business (which he was

forced to relocate to its current location due to structural problems at a previous Longmore and University site), and his efforts to meet with the Planning & Zoning Board (P & Z) and the members of the Mesa Grande Alliance concerning his application for a Council Use Permit. Mr. Landrum stressed the fact that he does not sell/pawn firearms and has also agreed not to sell pornographic videos. He added that although he understands that the public wishes to eliminate the proliferation of pawnshops in the area, he has a proven track record as a successful business owner within the community.

The following citizens, in order of appearance, spoke in support of the issuance of a Council Use Permit relative to Case No. Z03-13:

John West	3902 East Dover Street
Amy Landrum	1002 West 6 th Street
Tom Brown	520 North Emerson
Ronald Wiltbank	1052 West 4 th Place

Citizens who spoke in support of this item expressed the following opinions:

- The applicant will not sell/pawn guns and has also agreed not to sell pornographic materials at the new business location;
- Pawnshops, as opposed to secondhand stores, serve a purpose within the community to issue tickets for items that are pawned and to submit those records to the Mesa Police Department;
- The applicant's previous pawnshop had a wide-ranging clientele.

Mayor Hawker advised that the following citizens submitted cards and expressed opposition to the issuance of a Council Use Permit, but did not wish to speak:

Jana L. Rowley	121 North Beverly
Jerry A. Rowley	121 North Beverly
Chris James	316 North Beverly
Brian Burton	355 North Beverly
Cathy Shepherd	1558 West 1 st Street

The following citizens, in order of appearance, spoke in opposition to the issuance of a Council Use Permit:

Jennifer Sandstrom	222 North Beverly
LaRue Gates	1948 West Devonshire
Gregory S. Woods	1426 West Pepper Place
Dianne Woods	1426 West Pepper Place
Don Kenney	249 North Westwood

Citizens who spoke in opposition to this agenda item expressed the following opinions:

- It is the preference of the surrounding residents that an alternative use be selected for the site as opposed to a pawnshop;
- West Mesa has a higher percentage of pawnshops than any other area of the City;

- Neighborhood residents urge the applicant to select a business that does not encourage criminal elements to remain within the area;
- The cost incurred by the Mesa Police Department to “monitor” a pawnshop far outweighs the amount of revenue that the City receives from the business.

Acting Planning Director Dorothy Chimel provided a brief overview of this agenda item and outlined the Zoning Ordinance criteria used to approve or deny a Council Use Permit. She explained that initially, Planning staff recommended approval of this case; that at the P & Z meeting, the Boardmembers obtained information relative to the Mesa Grande Action Plan (a sub-area plan recognized in the City’s General Plan) which formed the basis for the Board’s denial (6-1) of the matter; that the action plan states, “There is a disproportionate abundance of low-end retail businesses that support transient clientele, e.g., pawnshops, check cashing stores, massage parlors and tattoo shops;” that Planning staff had established a set of conditions precluding the sale or display of firearms and pornographic materials, and that if staff had obtained the information offered at the P & Z meeting, it may have made a different recommendation relative to Mr. Landrum’s application.

Discussion ensued relative to the fact that Mr. Landrum could still operate a retail business if the Council elected not to approve his Council Use Permit application; that he would be permitted to sell guns if he acquired a Federal firearms sales license, and the requirements regarding the display and sale of sexually oriented material.

Vice Mayor Kavanaugh expressed support for the recommendations of the P & Z Board that the Council deny Mr. Landrum’s application for the Council Use Permit. He commented that it is important that the Council take into consideration the findings and recommendations of the Mesa Grande Alliance, as well as its vision to encourage positive investment and impact within the community. Vice Mayor Kavanaugh added that there is currently a proliferation of pawnshops in west Mesa.

Councilmember Walters concurred with the comments of Vice Mayor Kavanaugh. She noted that she initially became aware of Mr. Landrum’s case when she represented this area of the City and learned that he had relocated his business prior to obtaining a Council Use Permit. Councilmember Walters stated that in instances such as this, an unfortunate perception often occurs that the Council is harming an individual’s ability to conduct business, and she stressed that she does not want to see that happen to anyone. She added that she and the Mesa Grande Alliance have worked very hard to develop its Sub-Area Plan in an effort to improve west Mesa and stressed that there is a disproportionate number of uses that create a negative impact and consequently drive out good uses in the area.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, to uphold the recommendations of the Planning and Zoning Board and to deny the Council Use Permit.

Mayor Hawker expressed support for the motion, but noted that he would be somewhat reluctant to vote in this manner if Mr. Landrum was unable to make a living and continue the operation of his business as a secondhand retail outlet. He commented that in the future, he anticipates that light rail will reach the City of Mesa and that Main Street will become a high capacity corridor with a number of redevelopment projects. Mayor Hawker also stated that it is at the discretion of the Council when Council Use Permits are granted and noted that the

addition of another pawnshop would not be viewed as a positive benefit to aid and strengthen the surrounding neighborhood.

In response to a question from Councilmember Griswold, Ms. Chimel clarified that a Council Use Permit runs with the land. She explained that if Mr. Landrum's Council Use Permit application were approved and he sold his business at some point in the future, the new buyer would still be permitted to operate the business under the original permit. Ms. Chimel added, however, that if the business ceased operation for a year or longer, the Council Use Permit would become moot and removed administratively.

Councilmember Griswold voiced support for the motion and commented that as a proponent of the General Plan and Sub-Area Plans, it is imperative that Mesa's residents are provided the opportunity to solicit input relative to the "look and feel" of their neighborhoods.

Councilmember Thom expressed opposition to the motion and said that if Mr. Landrum is asked to change his business, the Council is, in effect, telling him how he should be making a living.

Councilmember Whalen voiced support for the motion and commented that although Mr. Landrum has a right to make a decent living as a business owner, in his opinion, he cannot endorse the addition of another pawnshop in west Mesa. He added that he also concurs with Mayor Hawker's vision of Main Street becoming a high capacity corridor for light rail.

Councilmember Jones commented that he is an advocate of Mesa's neighborhoods and expressed concerns relative to possible unintended consequences that can arise as a result of unregulated pawnshops. He spoke in support of the motion due to the fact that Mr. Landrum is simply relocating his business and not starting a new business.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- *c. **Z03-14** 6232 East Arbor Avenue (3.6 acres±). Rezone from C-2 to C-2 PAD. This case involves the development of a medical office complex. Jere Plank, owner; Edward Roblee, applicant. Also consider the preliminary plat of "Baywood Professional Center" – Ordinance No. 4064.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count, lot coverage), 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. All street improvements and perimeter landscaping to be installed in the first phase of construction.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Compliance with all requirements of the Design Review Board.
7. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:25 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 May 2003. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK