

COUNCIL MINUTES

November 1, 1999

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 November 1, 1999 at 5:49 p.m.

COUNCIL PRESENT

Mayor Wayne Brown
Jim Davidson
John Giles
Keno Hawker
Pat Pomeroy
Bill Jaffa

COUNCIL ABSENT

Dennis Kavanaugh

POLICE OFFICER
PRESENT

Marc There

OFFICERS PRESENT

C.K. Luster
Neal Beets
Barbara Jones

Mayor Brown excused Councilmember Kavanaugh from the meeting.

The Invocation was given by Pastor Howard Gwartney, East Valley Free Will Baptist Church.

The Pledge of Allegiance was led by Garrett Morris, Troop #80.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the minutes of October 14, 20 and 21, 1999 be approved.

Mayor Brown declared the motion carried unanimously by those present.

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 Giles, seconded by Councilmember Pomeroy, that the consent agenda items be approved.

Mayor Brown declared the motion carried unanimously by those present.

3. Conduct a public hearing on Assessments for Special Improvement District No. 239. This District installed Suburban Ranch Street Improvements along North Brimhall Street from East Lehi to East Nance Street. CONTINUED FROM THE OCTOBER 6 COUNCIL MEETING. SEE ITEM 7a.

Mayor Brown announced that this is the time and place for a public hearing regarding the Assessments for Special Improvement District No. 239.

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. MARY JO WHALEN, CAMPAIGN MANAGER

Special Event License application of Mary Jo Whalen, Campaign Manager, Gilbert for Mayor, a one-day campaign committee event to be held on Tuesday, November 16, 1999 from 6:30 p.m. to 8:30 p.m., at 3102 E. Fairbrook Circle.

*b. RANDY D. NATIONS, AGENT

Person transfer Beer and Wine Bar License for Callender's Restaurants & Bakeries, 2051 S. Dobson Road, #18. This transfer is from Nancy Rymer, Individual, Olives Bistro & Bakery.

*c. MICHAEL J. DONNELLY, AGENT

Person transfer Liquor Store License for Fry's Food & Drug #62, 554 W. Baseline Road. This transfer is from Dennis R. Hood, Agent, Fry's Food Stores of Arizona, Inc.

*d. MICHAEL J. DONNELLY, AGENT

Person transfer Liquor Store License for Fry's Food & Drug #29, 1900 E. University Drive. This transfer is from Dennis R. Hood, Agent, Fry's Food Stores of Arizona, Inc.

*e. MICHAEL J. DONNELLY, AGENT

Person transfer Liquor Store License for Fry's Food & Drug #44, 4422 E. University Drive. This transfer is from Dennis R. Hood, Agent, Fry's Food Stores of Arizona, Inc.

*f. MICHAEL J. DONNELLY, AGENT

Person transfer Liquor Store License for Fry's Food & Drug #23, 5941 E. McKellips Road. This transfer is from Dennis R. Hood, Agent, Fry's Food Stores of Arizona, Inc.

*g. CYRUS MOHAMMADZADEH, AGENT

New Beer and Wine Store License for Cyrus Higley LLC, 5151 E. McKellips Road. This is a new building, which is currently under construction, no previous liquor licenses at this location.

5. Consider the following contracts:

- *a. Six each 30 cubic yard steel refuse containers as requested by the Solid Waste Division. These containers will be used to expand the Clean Sweep program.

The Purchasing Division recommends accepting the low bid by TRS Wastech at \$11,400.00 plus 7.0% sales tax of \$798.00 for a total of \$12,198.00.

- *b. 75 personal safety alarms as requested by the Fire Department. These alarms are a safety device to be used on the self-contained breathing apparatus.

The Purchasing Division recommends accepting the low bid by Fisher Scientific/Fisher Safety at \$28,875.00 plus 7.0% sales tax of \$2,021.25 for a total of \$30,896.25.

- *c. Four Holmatro rescue tool devices as requested by the Fire Department. This equipment is used to extricate victims from wrecked vehicles.

The Purchasing Division recommends accepting the bid by Canyon State Emergency Products at \$93,428.60 plus 7.20% sales tax of \$6,726.86 for a total of \$100,155.46.

- *d. Hydraulic Tools as requested by the Utilities Department. These tools are used to repair fire hydrants throughout the City.

The Purchasing Division recommends accepting the bid by Balar Equipment Corp. at \$10,090.15 plus 7.0% sales tax of \$706.31 for a total of \$10,796.46.

- *e. Two-year Supply Contract for Gateway™ Desktop and Notebook Computers as requested by the Information Services Division. This contract will provide desktop and notebook computers to various City departments for the next twenty-four months. **CONTINUED TO THE NOVEMBER 15 COUNCIL MEETING.**

The Purchasing Division recommends awarding a two-year primary supply contract, with the option to extend the contract for an additional two years, to Sentinel Technologies, the lowest bidder meeting specification. In order to assure continuity of supply, the Purchasing Division also recommends awarding a secondary supply contract to Insight, Inc. The secondary supplier will be utilized in the event that the primary supplier cannot meet the City's requirements.

Staff projects that 90% (\$1,757,107.66) of the total annual expenditures will be with Sentinel Technologies and 10% (\$214,003.26) with Insight, Inc. The combined total award is \$1,971,110.92, including applicable sales tax, based on estimated annual requirements.

- f. 1999/2000 Crack Seal Project, Phase 2. City of Mesa Project No. 00-06.1

This project consists of sealing cracks in existing roadways, City owned parking lots and alleys throughout the City.

Recommend award to low bidder, Cholla Pavement Maintenance, in the amount of \$323,646.30.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such

conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

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

Upon tabulation of votes it showed:

AYES-	Brown-Davidson-Giles-Jaffa-Pomeroy
NAYS-	None
ABSENT-	Kavanaugh
ABSTAIN-	Hawker

Mayor Brown declared the motion carried unanimously by those present and voting.

*g. Residential Street Lighting Project. Mesa Drive to Hobson and Main Street to 2nd Street, City of Mesa Project No. 99-76; and Mesa Drive to Horne and 2nd Avenue to Main Street, City of Mesa Project No. 99-77.

This project involves installing new street lighting in existing neighborhoods in Mesa.

Recommend award to low bidder Utility Power Plus, Inc., in the amount of \$206,955.00.

h. Property and liability insurance coverage for the City to be effective from November 22, 1999 through November 21, 2000 as requested by the Risk Management section of the City Attorney's Office.

The City Attorney's Office recommends accepting the proposal from Arthur J. Gallagher & Co. as broker for the City's liability and property insurance for the next three years, and for the following coverages for the current year:

\$58 million in liability insurance, with at \$2,000,000 deductible at an initial annual premium of \$199,133; and

\$250 million in property insurance, with a \$50,000 deductible, at an initial annual premium of \$61,625.

Therefore, the combined award is \$260,758.00.

Roc Arnett, representing Marsh USA, Inc., a property and liability insurance company, addressed the Council relative to this agenda item. Mr. Arnett requested that the Council consider separating the bids into two separate categories, liability and property, and awarding the contracts to the lowest bidder in each category rather than awarding the entire contract to one company. Mr. Arnett stated the opinion that the City would gain added coverage in specific liability areas and decrease premiums by separating the insurance coverage into two bid areas.

Mary Michel, also representing Marsh USA, Inc., informed the Council that the practice of dividing insurance coverage is common and expressed the opinion that the proposed recommendation would positively impact the City of Mesa.

In response to a question from Vice Mayor Giles, City Attorney Neal Beets stated the opinion that an alternative option may be to request the companies to present their best and final offers, but noted that

staff supports their original recommendation to award both categories of insurance to Arthur J. Gallagher & Company.

Discussion ensued relative to the possibility of rebidding the contract, the fact that Marsh USA would provide coverage in areas not included in Gallagher & Company's proposal, the feasibility of requesting a best and final offer from Marsh USA and Gallagher & Company, time limitations and the fact that insufficient time exists in which to totally rebid the contract.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that this agenda item be continued to the November 15, 1999 Regular Council Meeting and that staff be directed to request best and final offers from the two respondents for both combined property/liability coverage and separate liability and property insurance.

Additional discussion ensued relative to the fact that the request will be directed to Marsh USA and Gallagher & Company only, the fact that the Request for Proposals did not mention best and final offers, Councilmember Hawker's concerns regarding limiting the request to the two companies and not opening the process to include all possible bidders, and staff's recommendation to award the contract to the best overall low bidder.

In response to a question from Councilmember Hawker, Mr. Beets stated that staff prefers working with one rather than two insurance brokers regarding the City's insurance and added that the current process of awarding the insurance as a package has consistently proven to be both efficient and effective. Mr. Beets advised that staff will pursue alternative options should that be the desire of the Council.

Councilmember Davidson expressed support for staff's recommendation.

Mayor Brown clarified the motion currently before the Council and stated that a "yes" vote will reject staff's recommendation, continue the issue to the November 15, 1999 Regular Council Meeting, and direct staff to request "best and final" bid offers (on a package and separate basis) from Marsh USA and Gallagher & Company. Mayor Brown added that a "no" vote will support staff's recommendation.

Upon tabulation of votes, it showed:

AYES - Brown-Giles-Jaffa-Pomeroy
NAYS - Davidson-Hawker
ABSENT - Kavanaugh

Mayor Brown declared the motion carried by majority vote of the Council present.

6. Introduction of the following ordinances and setting November 15, 1999 as the date of public hearing on these ordinances:

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

a. Annexing the following Maricopa County right-of-ways.

*1. **A99-6** Maricopa County right-of-way for Signal Butte Road from Southern Avenue to south of the Superstition Freeway.

- *2. **A99-7** Maricopa County right-of-way for Ray Road from Power Road to east right-of-way line of the RWCD Canal.
- *b. Amending Ordinance 2671, Fair Housing Policy, further defining the "housing for older persons" exemption to more closely reflect language of current Federal law.
- *c. Establishing a dual speed limit of 35 mph on school days from 7:30 a.m. to 4:00 p.m. and 45 mph at all other times on Guadalupe Road from Power Road to a point 2,400 feet east of Power Road, prohibiting parking between 8:00 a.m. and 4:00 p.m. on school days on Golden Street from Glencove Street to a point 1,015 feet north of Glencove Street, and prohibiting parking on 64th Street from a point 275 feet south of McKellips Road to a point 235 feet north of McKellips Road, all as recommended by the Transportation Advisory Board.
- *d. Amending Section 1-7-2 of the Mesa City Code relating to terms of office for City Magistrates.
- e. Relating to public safety and sexually oriented businesses; amending Sections 6-1-16, 6-16-1, 6-16-2 and 6-16-15 of the Mesa City Code and providing penalties for the violation thereof.

In response to a request for input from Mayor Brown, City Attorney Neal Beets advised that two optional ordinances have been prepared for Council consideration. Mr. Beets stated that both Options A and B revise the City's Sexually Oriented Business Code to address a court case that the City lost involving a video store and terminology included in the Code that was determined by the court to be "unconstitutionally vague." Mr. Beets said that the proposed ordinances remove the vague terminology and replace it with more objective and precise language. Mr. Beets added that Option B, in addition to the above listed change, also includes a new category of Sexually Oriented Business, vending machines which display or sell materials that are sexually explicit as defined in the City's Code. Mr. Beets informed the Council that if materials contained in vending machines display or sell that type of sexually explicit material, then in accordance with Option B, the machines' locations would be restricted to certain areas of the City, mainly manufacturing areas, where other sexually oriented businesses are allowed. Mr. Beets commented that although there are no sexually oriented businesses currently located in the City of Mesa, any future business of this type would be required to locate in a manufacturing zone away from residential areas.

Mr. Beets noted that publications that display and sell sexually explicit material for 10 days during any continuous 30-day period qualify as sexually oriented businesses and must be located in a designated manufacturing area.

Councilmember Hawker stated that although the intent of Option B is commendable, he is concerned that the City of Mesa is spearheading an effort to revise certain freedom of speech rights that have been available to citizens over an extensive period of time. Councilmember Hawker questioned whether the City should partner with agencies such as the League of Arizona Cities and Towns and/or the State Legislature regarding this issue. Councilmember Hawker commented on the fact that the proposal may result in extensive legal battles and said that a group effort would enhance the effectiveness and reduce the costs that may potentially be involved.

Mr. Beets commented that the proposed ordinance would be the first measure of its kind in Arizona.

Councilmembers Pomeroy and Jaffa spoke in support of Option B.

Vice Mayor Giles commented that he also supports Option B and stressed the importance of limiting the number of areas within the City where this type of material can be displayed and sold. Vice Mayor Giles

expressed the opinion that Option B proposes to regulate rather than censor and added that potential litigation should not deter the City's efforts to control this type of material.

It was moved by Vice Mayor Giles, seconded by Councilmember Jaffa, that the proposed ordinance referred to as Option B be introduced.

In response to questions from Councilmember Davidson, Mr. Beets concurred that there are risks involved in the enactment of the proposed ordinance. Mr. Beets stated that the possibility exists that the City of Mesa may "lose ground" as well as achieve a "victory" as a result of litigation and added that the process would be lengthy and involved.

Councilmember Davidson stated that although he concurs that the City's efforts to enforce Option B would be commendable, he is concerned that the potential ramifications could be far reaching and ultimately impact other areas and facets of the City. Councilmember Davidson indicated that he will support Option A.

Councilmember Hawker stated that he will support the motion for the purpose of introduction and requested that Mr. Beets prepare potential legal cost estimates for the Council to review. Councilmember Hawker also requested that staff contact other municipalities and agencies in an effort to determine their interest in working with the City of Mesa on this issue.

In response to a question from Mayor Brown, Mr. Beets advised that the Council may consider introducing both Option A and Option B at this time.

Vice Mayor Giles amended his motion to introduce both Options A and B for consideration at the November 15, 1999 Regular Council Meeting. Councilmember Jaffa seconded the amendment.

Mayor Brown declared the motion carried unanimously by those present.

7. Considering the following resolutions:

- a. Approving the assessments for Special Improvement District No. 239. **CONTINUED FROM THE OCTOBER 6 COUNCIL MEETING** – Resolution No. 7439.
- b. Providing the issuance of City of Mesa Improvement Bonds for Special Improvement District No. 239. This District installed Suburban Ranch Improvements along North Brimhall Street for East Lehi Road to East Nance Street – Resolution No. 7440.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that Resolution Nos. 7439 and 7440 be adopted.

Mayor Brown declared the motion carried unanimously by those present and Resolution Nos. 7439 and 7440 adopted.

- *c. Authorizing the City Manager to execute an agreement between the Union Pacific Railroad Company and the City of Mesa which allows the City of Mesa to enter into the railroad right-of-way to construct and maintain a 24" sanitary sewer main – Resolution No. 7435.
- *d. Extinguishing a Public Utilities and Facilities Easement at 1955 S. Stapley Drive.

This portion of the easement is not being used and is in conflict with the construction of the new WalMart store – Resolution No. 7436.

- *e. Authorizing the City Manager to execute the San Carlos Apache Tribe Water Rights Settlement Agreement.

This agreement settles a long standing claim of the San Carlos Apache Tribe to certain Salt and Gila River water rights – Resolution No. 7437.

- *f. Authorizing the City Manager to sign a request to the Town of Gilbert to annex land owned by the City of Mesa and within Gilbert’s municipal planning area, which may be the future site of City facilities and/or other development – Resolution No. 7438.

8. Consider the following ordinance:

- *a. Relating to public health; repealing Ordinance 3649; amending Section 6-11-2 of the Mesa City Code and providing for a savings clause and penalties for the violation thereof. **CONTINUED TO THE NOVEMBER 15 COUNCIL MEETING.**

This ordinance repeals the prior ordinance which modified the smoking regulation to allow a mechanical ventilation system in lieu of doors to separate bars in restaurants from the restaurant areas.

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

- *a. **Z99-80** The northeast corner of Val Vista Drive and U.S. 60. Rezone from C-2 to R-4 (3± acres). This case involves the development of a senior apartment complex. Phillips Petroleum, owner; Arrellaga Development Group, Inc., applicant, represented by: Edward Steinfeldt – Ordinance No. 3702.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, 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 Design Review Board.
6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.

- *b. **Z99-81** The northeast corner of Val Vista Drive and Inverness. Rezone from R1-7 to C-2 (1.5± acres). This case involves the development of a retail building for Washburn Piano. Glenwood Development Company, owner; W. Ralph Pew, P.C., applicant, represented by: Sean Lake – Ordinance No. 3703.

P & Z Recommendation: Approval with conditions (Vote: Passed 6-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with all City development codes and regulations.

3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, 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 Design Review Board.

*c. **Z99-83** South of the southwest corner of Power Road and Thomas Road. Rezone from R1-90 to R1-6-PAD (5.7± acres). This case involves the development of a detached patio home subdivision. Owner/applicant: Homes by Judi – Ordinance No. 3704.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with the Residential Development Guidelines.
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, 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. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
7. Written notice be provided to future residents, and acknowledgement received that the project is within one mile of Falcon Field Airport.
8. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25db.
9. The project comply with the conditions of zoning case Z99-5 relating to: a gated entrance, single level product, 60' building setback from the west property line and that the community be age restricted.
10. Compliance with letter dated September 7, 1999 from Patrick Hendley (Homes by Judi) to City of Mesa which is included in the zoning case file.

*d. **Z99-85** South of the southwest corner of Greenfield Road and Main Street. Rezone from AG to R-2-PAD (7± acres). This case involves the development of a residential subdivision. B. Investments, owner, represented by: Jim Passey; Sivage-Thomas Homes, applicant, represented by: Mike Nuessle – Ordinance No. 3705.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with the Residential Development Guidelines regarding building elevation design.
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
4. Dedicate the right-of-way required under the Mesa City Code 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. Perimeter subdivision wall to be 6' high, minimum, as measured from both adjacent properties.
7. Houses along the subdivision's east, west and south perimeter to be one story only.
8. Compliance with letter dated 9/16/99 to City of Mesa from M. Nuessle (Sivage-Thomas Homes) which is included in the zoning case file.

- *e. **Z99-86** The 2100 block of South Vineyard (west side). Rezone M-1 to M-1-PAD (7± acres). This case involves the development of an office complex. Vanderbilt Farms, LLC. owner; Lyons Real Estate & Development, applicant – Ordinance No. 3706.

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

1. Compliance with the basic development as described in the project narrative and as shown on the preliminary plat, site plan and elevations submitted, except as noted below.
 2. Compliance with all City development codes and regulations.
 3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
 4. Dedicate the right-of-way required under the Mesa City Code at the time of subdivision technical review, or at the time of the City's request for dedication, whichever comes first.
 5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
 6. Compliance with all requirements of the Design Review Board.
- f. **Z99-87** 538 South Robson. Rezone from R-4 to M-2 (.3 acre). This case involves the development of an industrial facility with outdoor storage. Donald Anthony, owner; George Candal, applicant.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below.
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
3. 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.
4. All street improvements and perimeter landscaping to be installed in the first phase of construction.
5. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.

Councilmember Davidson requested that this agenda item be continued to the December 6, 1999 Regular Council Meeting to allow additional time to review the case.

It was moved by Councilmember Davidson, seconded by Vice Mayor Giles, that this agenda item be continued to the December 6, 1999 Regular Council Meeting.

Mayor Brown declared the motion carried unanimously by those present.

- g. **Z99-88** The 1300 block of North Val Vista Drive (west side). Rezone from R1-35 to R1-35-PAD (20 acres). This case involves the conversion of an existing subdivision to a gated community.

Chatham Groves Homeowner's Association, owner; represented by: Mark Mabry; Tim Nielsen, applicant – Ordinance No. 3708.

P & Z Recommendation: Approval with conditions (Vote: Passed 5-0-1, Chair Zaharis abstaining).

1. Compliance with the basic development as described in the project narrative and as shown on the amended plat submitted, except as noted below.
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
3. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
4. Compliance with all requirements of the Subdivision Technical Review Committee.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that Ordinance No. 3708 be adopted.

Upon tabulation of votes it showed:

AYES-	Brown-Davidson-Giles-Hawker-Pomeroy
NAYS-	None
ABSENT-	Kavanaugh
ABSTAIN-	Jaffa

Mayor Brown declared the motion carried unanimously by those present and voting and Ordinance No. 3708 adopted.

- h. **Z99-89** The 11200 through 11500 blocks of Elliot Road (south approximately 400'). Establishment of City zoning districts on recently annexed lands (157 acres). Kaufman & Broad, owner; City of Mesa, applicant – Ordinance No. 3709.

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

1. Compliance with stipulations established by the County Board of Supervisors.
2. Compliance with the Mesa Residential Development Guidelines where applicable.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
5. Minimum lot size shall be 8,000 sq. ft. within the R1-7 PAD district for Parcel D of the Mountain Ranch subdivision.
6. Parcel A is required to have 165 total lots with 32 lots being greater than 7,000 sq. ft. in area.
7. 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.
8. Compliance with all requirements of the Subdivision Technical Review Committee.

9. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway 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).
10. Written notice be provided to future residents, and acknowledgement received that the project is within two miles of Williams Gateway Airport.
11. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25db.
12. Written notice be provided to future residents, and acknowledgement received that the project is within one mile of General Motors Proving Grounds.

Councilmember Hawker commented briefly on Stipulations 9, 10, 11 and 12 listed above and noted that the subject of density levels in this area has been an on-going issue of contention between the City of Mesa and Maricopa County.

In response to a question from Councilmember Hawker relative to water and sewer availability for the proposed project, City Manager Charles Luster advised that water service is available. Mr. Luster added that in order to receive sewer service, the applicant will be required to pay for a line extension down Mountain Road to Pecos. Mr. Luster said that the applicant has agreed to purchase the required line extension.

Mr. Beets responded to questions from Councilmember Hawker relative to the City's ability to control services provided to the parcel and clarified that the property has already been annexed into the City of Mesa. Mr. Beets expressed the opinion that the City had the ability to deny the annexation based on unacceptable density levels approved by the County. Mr. Beets commented that this area is defined in the General Plan as medium density residential, rather than low density, and is consistent with the requirements.

Discussion ensued relative to power line easements and the possibility of not allowing the easements to be used as density transfers, the fact that density transfers were allowed in this case, Councilmember Hawker's opinion that effort should be expended to ensure the City's involvement in zoning cases prior to the actual zoning process taking place, and a recommendation from Councilmember Hawker that the City charge higher water/sewer rates for properties that do not want to be annexed into the City of Mesa.

Mr. Beets expressed concern that the result of higher rates may be the creation of additional County islands, and noted the costs associated with providing fire and police services to those areas.

Councilmember Jaffa concurred with Councilmember Hawker's remarks relative to density transfer issues and the importance of protecting the Williams Gateway Area corridor from residential development. Councilmember Jaffa added that this property has always been designated medium density and said for that reason he will vote in support of approving the case.

Councilmember Pomeroy stated that the City has annexed the property, the zoning is in accordance with the General Plan, and said that he will support the case.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that Ordinance No. 3709 be adopted.

Councilmember Jaffa stressed the importance of advising residents in the area that although the City Council is concerned about encroachment issues and recognizes the importance of protecting the area, the County Board of Supervisors has approved the zoning for this parcel and the City is obligated to accept the same standards. Councilmember Jaffa encouraged the citizens to write to the Maricopa County Board of Supervisors and express their concerns regarding density issues.

Mayor Brown declared the motion carried unanimously by those present and Ordinance No. 3709 adopted.

- *i. **Z99-90** The 6500 and 6600 blocks of East Superstition Springs Boulevard (north side). Site Plan Review (7± acres). This case involves the development of an office complex. Ted Fisher, owner; Alan Grofsky, applicant – Ordinance No. 3707.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. Recordation of cross-access easements.
8. Compliance with all requirements of the Design Review Board.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway 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).

10. Consider the following subdivision plats:

- *a. "CRISMON CREEK UNIT I" – The 10000 - 10400 blocks of East Baseline Road (north side) 79 R1-7-PAD single residence lots (30.78 acres) Standard Pacific of Arizona, Inc., developer; Stantec Consulting Inc., engineer.
- *b. "ARIZONA ESPRIT II" – The 8500 block of East Medina Avenue (north side) 108 R1-6-PAD single residence lots (22.74 acres) Kaufman & Broad of Arizona, Inc., developer; AGRA Infrastructure, Inc., engineer.

11. Items from citizens present. (Maximum of three speakers for three minutes per speaker).

Mayor Brown advised that there were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:10 p.m.

WAYNE BROWN, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

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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 1st day of November 1999. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____ 1999

BARBARA JONES, CITY CLERK