

# COUNCIL MINUTES

February 22, 2000

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 February 22, 2000 at 5:45 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## OFFICERS PRESENT

C.K. Luster  
Neal Beets  
Barbara Jones

The Invocation was given by Pastor Don Enevoldsen, Living Word Bible Church.

The Pledge of Allegiance was led by Alex Dorado, Troop No. 166

### 1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the minutes of January 27 and February 3 and 7, 2000 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 Giles, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

### 3. Consider the following liquor license applications:

\*a. BILL MORTON, ADMINISTRATOR

Special Event License application of Bill Morton, Administrator, Arizona Wing - Confederate Air Force, a one-day civic event to be held Saturday, March 18, 2000 from 5:00 p.m. to 12:00 midnight, at 2017 N. Greenfield Road, Falcon Field Airport.

\*b. TORRIE A. TAJ, DIRECTOR OF DEVELOPMENT

Special Event License application of Torrie A. Taj, Director of Development, Prehab of Arizona, Inc., a one-day charitable event to be held Saturday, February 26, 2000 from 6:00 p.m. to 12:00 midnight, at 200 N. Centennial Way, Sheraton Mesa Hotel.

\*c. GARY HUMPHREY, AGENT

Location transfer Beer and Wine Bar License for Sunland Springs Village Golf Course Snack Shop, 11061 E. Medina Street. This transfer is from Dreamland Villa Golf Course Café, 5641 E. Albany, Mesa.

\*d. GURVINDER S. AUJLA, INDIVIDUAL

New Beer and Wine Store License for 7-Eleven 26201B, 2010 E. Main Street. The Beer and Wine Store License previously held at this location by Thomas Guy Inserra, Etal, 7-Eleven Food Store #26201 will revert back to the State.

\*e. BRUCE HOLBROOK, AGENT

New Beer and Wine Store License for Texaco Star Mart, 1959 S. Greenfield Road. This is a new business, which is currently under construction, no previous liquor licenses at this location.

\*f. RALPH HOWARD GOITIA, AGENT

New Restaurant License for Michael Monti's Mesa Grill, 1233 S. Alma School Road. The Restaurant License previously held at this location by Lee M. Cohn, Etal, American Grill will revert back to the State.

4. Consider the following contracts:

- \*a. Two-year supply contract for leather work gloves for the Materials & Supply Division warehouse inventory. These gloves are used by a variety of City departments.

The Purchasing Division recommends accepting the low bid for Group B by Fisher Safety at \$12,461.40 plus 5% use tax of \$623.07 for a total of \$13,084.47 based on estimated requirements.

- \*b. Two replacement high volume copiers for the Police Department. These copiers will be used in the Records section of the Police Department.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Ikon Office Solutions at \$98,483.65.

- \*c. 134 work stations and 38 conference/work tables for the Information Services Division at their new location, the South Center Street Campus.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Goodman's Inc. at \$484,620.31 including materials, design services, delivery, installation and applicable sales tax.

- \*d. One High density moveable shelving system as requested by the Finance Division.

The Purchasing Division recommends accepting the low bid by Walsh Bros. at \$11,339.00 plus 7.10% sales tax on materials of \$623.31 for a total of \$11,962.31.

- \*e. Two-year Personal Computer (PC) Hardware Maintenance Services Contract as requested by the Information Services Division (ISD). This contract will provide maintenance services for City personal computer hardware devices, (PCs, notebooks, printers, plotters, and scanners) installed throughout the City.

The Purchasing Division recommends awarding a two-year services contract to Signature Technology Group, Inc. for PC hardware maintenance services, for a first year total of \$197,269.91 including applicable sales tax, based on estimated requirements.

- \*f. Hardware to support and expand the computer network environment as requested by the Information Services Division. This equipment will be used to extend the existing network to the South Center Street Campus and to create a technology laboratory in the existing Information Services building.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Cabletron Systems for network hardware for a total of \$165,180.93.

- \*g. Dobson Ranch Golf Course Fence Replacement Phase 7. City of Mesa Project No. 0027.

This project consists of removing the existing fence and installing a new fence along a portion of Dobson Ranch Golf Course.

Recommend award to low bidder, Jilco Contracting, Inc., in the amount of \$98,655.00.

- h. 1999/2000 Fog Seal Project. City of Mesa Project No.00-07.

This project consists of fog sealing existing streets throughout the City.

Recommend award to low bidder, Engineering by Arrid Zone, in the amount of \$338,896.00.

Councilmember Hawker indicated that he had a possible conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting and because of such conflict he would refrain from discussing and/or participating in any manner in connection with same.

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

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

\*i. Super 8 Motel and Darby's Restaurant ACM Removal; City of Mesa Project No. 99-70.1.

This project involves the removal and disposal of Asbestos Containing Material (ACM) within two existing buildings.

Recommend award to low bidder, Contractor's Abatement Services, Inc., in the amount of \$49,850.00.

4.1 Discuss and consider approval of the schematic design for the Arts & Entertainment Center.

Mary Jo Whalen, Chairman of the Arts & Entertainment Design Review Committee, introduced the members of the Committee to the Council and audience. Ms. Whalen stated that following an extensive design process, the Committee is unanimously recommending that the Council approve the proposed schematic design that is before them this evening for the Mesa Arts & Entertainment Center. Ms. Whalen requested that staff be directed to proceed with the design development phase of the project. Ms. Whalen introduced members of the architectural/project management team to the members of the Council and stated that they will highlight a brief presentation on this project.

Mr. Bud Oringdulph and Tom Pene, representing BOORA Architects, Inc., presented an overview of the schematic design for the Arts & Entertainment Center.

Discussion ensued relative to the various components of the proposed design, the "Shadow Walk" concept, the construction of Lyric, Repertory, Playhouse and Studio Theaters, technical support areas, public and administration space, the Galeria Mesa and Mesa Arts Center, and commercial support and community meeting space.

Arts and Entertainment Center Project Manager Rick Pfannenstiel also addressed the Council and presented a "milestone review" of the project. Mr. Pfannenstiel discussed construction cost estimates and stated that \$5.8 million in value engineering suggestions and proposals have been identified and will be further evaluated in an effort to remain consistent with the proposed \$90 million budget.

Vice Mayor Giles encouraged Mr. Pfannenstiel to pursue the possibility of potential cost savings that may be realized as a result of utilizing a "chilled water plant."

Councilmember Pomeroy commented that the members of the Council have had several opportunities to review the design and pose questions to the architects and project management team. Councilmember Pomeroy stated support for the project and added the opinion that the Arts & Entertainment Center will represent a significant step towards changing and improving Mesa's image.

In response to a question from Councilmember Davidson relative to pursuing the utilization of a fuel cell, Mr. Pene commented that the suggestion has been raised and will be evaluated.

Councilmember Davidson expressed appreciation to everyone involved in the project and commented on the positive impacts the project will have on the City of Mesa.

Additional discussion ensued relative to the fact that the approval of the schematic design will not result in an increase in the budget, the fact that cost savings will be thoroughly explored, building design and the importance of not blocking the facility's signage with banners, proposed advertising marquis, the budget and the further exploration of value engineering savings.

Councilmember Jaffa commended everyone involved in the project and encouraged the teams to explore further cost savings. Councilmember Jaffa expressed the opinion that the project will enhance Mesa's visibility and standing.

In response to a question from Councilmember Hawker, Mr. Pfannenstiel commented on contingencies that have been factored into the project's estimate and stated that "milestone reviews" of construction costs will be conducted.

Councilmember Hawker stated that the citizens of Mesa passed the half-cent quality of life sales tax and expressed the opinion that the Arts & Entertainment Center and the Aquatics Center will become showplaces and attract a significant amount of people to the Town Center area. Councilmember Hawker stated that he supports the projects and believes that they will serve as catalysts for future redevelopment. Councilmember Hawker emphasized the importance of continuing to decrease government participation in projects such as this.

Councilmember Kavanaugh expressed appreciation to the members of the Committee, the architectural and project development teams, and staff for their extensive efforts regarding this project. Councilmember Kavanaugh advised that the proposed project is already receiving national recognition and said that major arts groups will utilize the Arts & Entertainment Center.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Davidson, that the schematic design for the Arts & Entertainment Center be approved and that staff be directed to proceed with the design element phase of the project.

Mayor Brown emphasized the extensive effort that has been expended on this project and expressed his appreciation to everyone who participated in this worthwhile endeavor.

Carried unanimously.

5. Introduction of the following ordinances and setting March 6, 2000 as the date of public hearing on this ordinance:

(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. Amending Section 11-14-3 of the Mesa Zoning Ordinance regarding Design Guidelines for signs.
- \*b. **Z99-96** The northeast corner of Crismon Road and U.S. 60. Rezone from R1-43 to C-2, M-1 and PEP (96± acres). This case involves the development of a Home Depot and a future retail/industrial complex.
- \*c. **Z99-104** The southwest corner of U.S. 60 and Crismon. Rezone from R1-43 to R-2-PAD (10± acres). This case involves the development of a residential subdivision.
- \*d. **Z00-1** 6704 East Brown Road. Rezone from O-S to C-1 (1± acres). This case involves rezoning an existing animal hospital to accommodate an ancillary boarding kennel.
- \*e. **Z00-3** 5966 East McDowell Road. Site Plan Review (2± acres). This case involves the development of a retail center.
- \*f. **Z00-4** The 3000 and 3100 blocks of North Val Vista Drive. Rezone from R1-35 to R1-35-PAD (20± acres). This case involves the development of a residential subdivision.
- \*g. **Z00-5** 619 and 621 West Southern Avenue. Rezone from R-4 to C-1 (1.6± acres). This case involves the development of an Urgent Care facility.
- \*h. **Z00-6** The southwest corner of Signal Butte and U. S. 60. Rezone from R1-43 to C-2 (67± acres). This case involves the development of a community commercial center.

\*5.1. Consider a resolution to vacate right-of-way and extinguish Public Utility and Facility Easements for Inverness Avenue between Val Vista Drive and Miramar – Resolution No. 7471.

6. Consider the following ordinances:

- \*a. Prohibiting parking on the north side of Main Street from Gilbert Road to Guthrie Street and on Ray Road from Power Road to Sossaman Road; prohibiting parking between 8:00 a.m. and 4:00 p.m. on school days on 25<sup>th</sup> Street from Brown Road to Glencove Street; establishing a 35 mph speed limit on Ray Road from Power Road to Sossaman Road; and including Ray Road from Power Road to Sossaman Road in Section 10-3-17, “Special Stops Required”, of the Mesa City Code, as recommended by the Transportation Advisory Board – Ordinance No. 3745.
- \*b. Pertaining to the regulation of recovery homes and group homes for the handicapped, repealing the recovery home license and establishing a business license for group homes for the handicapped not otherwise licensed by a State or Federal agency by amending Chapter 2, Title 5 of the Mesa City Code; deleting the definition of recovery home thereby regulating such facilities as group homes for the handicapped in the zoning ordinance, by amending Chapters 1, 5, 8 and 13 of Title 11 of the Mesa City Code and providing penalties for the violation thereof – Ordinance No. 3746.
- \*c. **A99-8** Annexing the northeast corner of Mountain and Warner Roads – Ordinance No. 3747.

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

- a. **Z99- 99** The 4000 and 4100 block of East McDowell Road (north side). Establishment of a PAD overlay (110 ac). This case involves the application of development standards for "The Commons". Various, owner; City of Mesa: Community Development Department, Planning Division, applicants. **THIS CASE REQUIRES A ¾ VOTE.** Ordinance No. 3748.

P& Z Recommendations: Approval with conditions (Vote: Passed 5-1-1, Kathe Nay, Brock abstaining).

1. The City of Mesa shall erect a wall along the entire western property line of the Commons Industrial Park at Falconview. The City of Mesa shall begin the process for building the wall by the effective date of this ordinance and shall build the wall entirely at once, not in phases concurrent with individual lot development. The finished height of the wall shall be no less than 6 feet above the elevation of the eastern Canal bank road.

This wall shall have architectural treatments to ensure compatibility with adjacent residential properties. The City of Mesa shall reach an agreement with the adjacent residential property owners as to the extent of these treatments. The City of Mesa shall maintain responsibility for the permanent maintenance of said wall. Attachment A depicts the proposed wall and landscaping.

The lot owners of Maricopa County Assessor Parcel Nos. 141-25-062, 141-25-063A, 141-25-063B, 141-25-067, 141-25-068, 141-25-070 and 141-25-071 at the Commons Industrial Park at Falconview, which abut the RWCD Canal and are without property walls as required by Section 11-15-3 of the Mesa City Code at the time this ordinance is enacted, shall reimburse the City of Mesa for the construction of the wall. The amount of said reimbursement shall be equal to \$20 per lineal foot of wall that abuts each owner's parcel. Said reimbursement shall be due and payable, in its entirety, to the City of Mesa as a condition of and upon the issuance of a building permit for said property. The City of Mesa shall accept construction of the wall, and each owner's reimbursement therefor, as meeting the screening wall requirement for the western property line of Maricopa County Assessor Parcel Nos. 141-25-062, 141-25-063A, 141-25-063B, 141-25-067, 141-25-068, 141-25-070 and 141-25-071 at the Commons Industrial park at Falconview. Each owner of the listed parcels shall execute an agreement obligating said owner to pay such reimbursement in accordance with the requirements of this Ordinance and to include said obligation in any conveyance of said owner's parcel.

2. The City of Mesa shall install and maintain a landscaping strip along the western side of the wall described in condition 1. Said landscaping strip shall be no less than 10 feet in width. The City of Mesa shall maintain at least one row of trees in this tract. The trees shall be at least 24 inch box trees on 15 foot centers. The selected species of trees shall be one that, at maturity, presents an ample canopy which provides visual screening, above the wall described in Condition 1, screening from the west side of the Canal bank.

Upon development of, or improvement to their lots, the lot owners of undeveloped lots in the Commons that abut the Canal shall install and maintain a landscaping strip on the east side of the wall described in condition 1. Said landscaping strip shall be no less than 10 feet in width. The lot owners of undeveloped lots in the Commons that abut the Canal shall maintain at least one row of trees in this tract. The trees shall be at least 24 inch box trees on 15 foot centers, and these trees shall be planted in a manner to stagger them with the trees on the west side of the wall every 7 1/2 feet on center. The selected species of trees shall be one that, at maturity, presents an ample canopy which provides visual screening, above the wall described in Condition 1, from the west side of the Canal bank.

The City shall withhold at its discretion a certificate of occupancy for any "Canal abutting" lot developed without such trees being in place.

3. The following use and design conditions apply to every parcel at the Commons Industrial Park at Falconview:
  - A. All landscaping trees shall be at least 24 inch box. Landscaping on already improved lots shall comply with the applicable zoning condition in effect when the property was improved.
  - B. All tree species shall be selected from the approved palette or approved by the City of Mesa as compatible with the approved palette.
  - C. The front of all pre-engineered metal buildings shall have architectural treatments using materials such as masonry, stucco or brick. All buildings shall have architectural treatments, consistent with front elevations, for any sides that are visually prominent from a street in the Commons Industrial Park. All buildings will require a letter of approval from the Commons Architectural Review Committee as part of an application for a building permit from the City of Mesa. Existing buildings that do not currently meet the standards of this provision are excepted from this provision, unless and until the lot accommodating such a building undergoes improvements (such as, but not limited to, development, redevelopment, additions, external remodeling, tenant improvements or internal remodeling requiring a permit) and/or changes in use, at which time all buildings on said lot must conform to this condition. An exception granted to this provision does not negate or affect the obligation to conform to all other provisions of this ordinance.
  - D. All outdoor storage areas, planned expansion areas or similar areas must be paved in accordance with section 16-2(E)(1) of the City of Mesa's Zoning Ordinance. Alternative paving surfaces not described in section 16-2(E)(1) may be approved by the City of Mesa for storage areas, provided that said storage areas are not used regularly and provided that use of said storage areas does not emit dust in violations of the restrictions in Paragraph 4(D) of this Ordinance. Outdoor storage areas, planned expansion areas or similar expansion areas may be landscaped in a manner that prevents vehicular access as an alternative to paving.

- E. All exterior/outdoor storage areas and service yards, all loading docks and ramps, all electrical cage enclosures, storage tanks or other mechanical equipment are to be screened from view from access streets, freeways, and adjacent properties by a masonry fence, wall or such other screening as is approved by the Commons Industrial Park at Falconview Owners Association and by the City of Mesa. Said screening shall form a complete opaque screen up to 8 feet in height.
  - F. No products, stored merchandise or racks (excluding vehicles) that are visually prominent from the RWCD Canal or from any street in the Commons shall extend above the fence height.
  - G. All company owned and operated motor vehicles and equipment, with the exception of passenger vehicles, shall be stored in a screened area approved by the City of Mesa.
  - H. All design conditions of this ordinance will be reviewed by the City of Mesa staff or the Design Review Board as prescribed by the City of Mesa Zoning Ordinance.
4. The following nuisance restrictions apply to every parcel in the Commons Industrial Park at Falconview:
- A. No rubbish or debris of any kind (such as junk, as defined by the Mesa City Code 8-6-2, scrap building materials, dirt) shall be placed or permitted to accumulate upon or adjacent to any lot higher than a horizontal line perpendicular to the top of the canal-side fence, and no odors shall be permitted to arise therefrom, so as to render any lot or portion thereof unsanitary, unsightly, offensive or detrimental to any residential property adjacent to, or in the vicinity of, the Commons or to the occupants thereof after the initial occupancy or during the initial construction or operation of the Improvements.
  - B. No use, activity or purpose shall be conducted in the Industrial Park that generates vibrations which are perceptible on the residential property adjacent to, or in the vicinity of, the Commons. Vibrations from improvements of lots pursuant to a City of Mesa permit are excluded.
  - C. No use, activity or purpose may subject surrounding neighborhoods to an explosion danger or danger from radiation, and no use may endanger surrounding neighborhoods.
  - D. No use, activity or purpose may emit smoke, soot, dust, fumes, gasses, or odorous, noxious or toxic matter into the air, beyond the industrial premises wherein such use is located, that endangers the comfort, repose or health of residents in any residential property adjacent to, or in the vicinity of, the Commons Industrial Park at Falconview.
  - E. No use, activity or purpose may emit noise levels, including single event noises, that register above 60 decibels at the western property line of the RWCD Canal or within any residential property adjacent to, or in the

vicinity of, the Commons Industrial Park at Falconview. Also, no use, activity or purpose on the Commons shall violate Chapter 12, Title 6, Mesa City Code.

- F. During the review process for applications to the Planning and Zoning Division or the review process for plans submitted to the Building Inspections Division, the City of Mesa may require a business in the Industrial Park to submit a sound study, performed by a qualified entity. The City of Mesa shall provide reasonable notice of this request to applicants. The sound study shall demonstrate that the noise level emanating from that business meets the noise criteria listed in Paragraph 4(E) of this Ordinance.
  - G. No use, activity or purpose shall be conducted which produces electromagnetic or electromechanical interference with normal radio or television reception from off the premises where the activity is conducted.
5. The following use and design conditions apply to every parcel at the Commons Industrial Park at Falconview that abuts the RWCD Canal or has frontage on McDowell Road:
- A. All improvements (such as, but not limited to, development, redevelopment, additions, external remodeling, tenant improvements or internal remodeling requiring a permit) and changes in use require approval from the City of Mesa before any improvements, construction or changes begin.
  - B. Colors, materials and finishes are to be coordinated on all exterior elevations of the buildings to achieve continuity of design.
  - C. No part of the roof may project above the parapet, except where such slope is an integral aspect of the building design in the opinion of the City of Mesa.
  - D. Vents, louvers, flashings, tanks, stacks, overhead doors or other similar items are to be painted consistent with the color of scheme of the building.
  - E. Street side yard setbacks shall be the same as required for front yards. Existing buildings that do not currently meet the standards of this provision are excepted from this provision. An exception granted to this provision does not negate or affect the obligation to conform to all other provisions of this ordinance.
  - F. All identification ground signs shall not exceed 5 feet above grade in vertical height, nor shall such ground signs be erected in the first 10 feet as measured from the property line of any street side setback areas.
  - G. Said signs shall be fixture signs; signs painted directly on the surface of the wall shall not be permitted. No sign shall extend above the roof or

parapet wall. In the instance of a multiple tenancy building, each individual tenant may have a wall sign near the entrance to identify the tenant. Said sign shall be designed to concept established by the Commons Industrial Park at Falconview Owners Association.

- H. All buildings shall have four-sided architectural treatments consistent with front elevations. Existing buildings that do not currently meet the standards of this provision are excepted from this provision, unless and until the lot accommodating such a building undergoes improvements (such as, but not limited to, development, redevelopment, additions, external remodeling, tenant improvements or internal remodeling requiring a permit) and/or changes in use, at which time all buildings on said lot must conform to this condition. An exception granted to this provision does not negate or affect the obligation to conform to all other provisions of this ordinance.
  - I. No products, stored merchandise or racks, excluding vehicles, shall extend above the fence height.
  - J. The City of Mesa and the Commons Architectural Control Committee shall review building and lot setbacks in a manner so as to maximize the buffering afforded to the residential development adjacent to the RWCD Canal.
6. Subject to the other provisions of this Ordinance, the following uses are prohibited at any parcel at the Commons Industrial Park at Falconview that abuts the RWCD Canal or has frontage on McDowell Road:
- A. Maintenance or storage of vehicles used to transfer, store, reduce, or handle garbage or other waste as a primary business. Nothing in this Ordinance shall prevent private property owners from challenging current uses involving the transfer, storage, reduction or handling of garbage or other waste as a primary business. To the extent this Ordinance is deemed not to apply to current uses involving the transfer, storage, reduction or handling of garbage or other waste as a primary business, nothing set forth herein modifies the applicability of Ordinance 1797 to such uses.
  - B. Crematories.
  - C. Outdoor maintenance of vehicles from 10:00 PM of one day to 6:00 AM of the following day.
  - D. Uses similar to those listed above, as determined by the Zoning Administrator.
7. Compliance with letter, dated 1 December 1999, from Commons Board stating their intention to enforce the 1998 CC & R's.
8. During the review process for applications to the Planning and Zoning Division or the review process for plans submitted to the Building Inspections Division, each

applicant, on any lot at the Commons, shall demonstrate, to the satisfaction of the Building Inspections Division, that all requirements of this zoning case shall be met.

9. The City of Mesa shall record these conditions as a means for notifying future and potential Commons lot owners.
10. No stipulation or stipulations in this ordinance shall release any property owner of any lot at the Commons Industrial Park at Falconview from the obligation to meet all the requirements of the Mesa City Code and the City of Mesa Zoning Ordinance.

Councilmember Jaffa indicated that he had a possible conflict of interest in connection with the matter currently under discussion which he wanted reflected in the minutes of the meeting and because of such conflict, he would refrain from discussing and/or participating in any manner in connection with same.

Planning Director Frank Mizner presented a brief overview of the case.

In response to a request from Mayor Brown, City Attorney Neal Beets noted that staff has initiated extensive effort to ensure that the proposed ordinance is legally enforceable. Mr. Beets added that the proposed ordinance provides direction relative to the future development of vacant parcels on the east side of the canal and said that existing buildings will remain subject to the 1984 ordinance.

Mayor Brown advised that speakers will be allotted three minutes each to present their remarks.

Vicky Burkinshaw, 3902 East Oasis, raised a number of questions and concerns regarding the proposed ordinance which were addressed by City Attorney Neal Beets. Ms. Burkinshaw expressed appreciation to the Council for the revisions that have occurred, particularly the addition of specific time parameters.

Jeffrey Gross, 2575 East Camelback, an attorney representing one of the tenants of the park, stressed the importance of ensuring that the tenants' rights are protected.

Scott Rhodes, 2 North Central, an attorney representing Gary & Helen Williams, residents in the adjacent subdivision, commented that his clients have been negatively impacted by the noises and odors emanating from The Commons Industrial Park. Mr. Rhodes expressed the opinion that the proposed ordinance will not resolve all of the outstanding issues and added that in certain respects the residents are being asked to rely on promises rather than written assurances. Mr. Rhodes requested that the Council vote on this matter and clarify that this ordinance represents only the first step in addressing the concerns of the residents in the area. Mr. Rhodes informed the Council that he has the authority to remove the legal protest previously filed by his clients and said that he will do so at this time based on the belief that the Council will continue to address this issue on behalf of the residents.

In response to a question from Mayor Brown, Planning Director Frank Mizner stated the opinion that the withdrawal of the legal protest will eliminate the  $\frac{3}{4}$  vote requirement.

Cora Lenz, 3717 East Pomegranate, spoke in opposition to the approval of the proposed ordinance and said that in accordance with the terms, the tenants would be allowed to pile debris as high as their wall and as long as the debris is not visible from the other side. Ms. Lenz commented that the debris would be scattered by windstorms and encouraged the members of the

Council to postpone voting on this issue and devote additional time to developing an improved ordinance.

Mayor Brown stated that Pat Richards, 3618 East Pomegranate, has indicated in writing his opposition to the approval of this ordinance but does not wish to speak at this time. Mayor Brown read Mr. Richards' suggestion relative to relocating the offending businesses.

Mayor Brown also advised that Barbara Henderson, 3640 East Pomegranate, has submitted written comments in opposition to the proposed ordinance and in support of relocating the offending business.

Francis Slavin, 2198 East Camelback, Phoenix, an attorney representing Allied Waste, advised that a letter has been submitted to the Council on behalf of his clients regarding the proposed ordinance. Mr. Slavin stated the opinion that the 1985 CC&R's are not enforceable and emphasized that his client's business operates 40 to 45 trucks out of their facility, which was built according to City rules and regulations. Mr. Slavin commented that although he can understand the citizens' concerns, his client also has legal property rights that must be protected. Mr. Slavin expressed the opinion that the only viable long-term solution to the problem is to negotiate an acceptable relocation proposal for the businesses in the park. Mr. Slavin added that his clients are opposed to having anything recorded on the title of their property.

Bill Rau, 3820 East Oasis, discussed the extensive research he undertook prior to purchasing his property and said that although the Council and staff has made vast improvements in their attempts to address the neighbors' concerns, in his opinion the only viable solution will be the relocation of the offending businesses.

Mark Funk, 3763 East Oasis Circle, President of the Somerset Estates Homeowners' Association, stated that he supports the proposed ordinance based on the premise that the two existing businesses will be required to conform to either the current or original ordinance. Mr. Funk posed a number of questions relative to this case which were addressed by Mr. Beets. Mr. Funk stressed the importance of enforcing the regulations and protecting area residents.

Ted Williams, 515 North Date Street, informed the Council that he is the owner of TLW Construction Company, Inc. and owns a lot that backs up to the canal in The Commons Industrial Park. Mr. Williams stated that the Maricopa County Department of Air Quality strictly enforces dust regulations and encouraged citizens with complaints to contact that department. Mr. Williams spoke in support of approving the proposed ordinance and urged the Council not to allow further delays to occur.

Julee Brady, a homeowner in an adjacent subdivision, played a tape recording of noises she is subjected to when trucks back in and out of The Commons Industrial Park. Ms. Brady stated the opinion that The Reeb Group should assume added responsibility for the problems created in the development and requested that the Council act to protect the area residents and their property values.

Lew Lenz, 3717 East Pomegranate, commented that he resides approximately four blocks west of the site currently under discussion and stressed the importance of ensuring that situations such as this are avoided in the future. Mr. Lenz requested that the Council initiate action to ensure that industrial development will be significantly separate from residential development in the future. Mr. Beets responded to a series of questions posed by Mr. Lenz.

Jason Morris, 3200 North Central, an attorney representing Dave's Construction Company, spoke in opposition to the adoption of the proposed ordinance and urged the Council to delay action pending further consideration. Mr. Morris commented that adoption of the proposed ordinance will set a precedent and the Council will be besieged with similar requests from other neighbors. Mr. Morris expressed the opinion that the ordinance does not adequately address day-to-day issues. Mr. Morris requested that the Council revisit the issue of business relocation and work with the businesses to accomplish this goal.

Eric Huish, 3838 East Palm Circle, expressed appreciation to the Council and staff for the time and effort that has been expended on this case. Mr. Huish stated that his major concern involves the existing businesses located across the canal and requested assurances from the Council that noise enforcement will occur. Mr. Huish commented on the benefits of relocation but said that he hopes the negotiation amounts are reasonable.

Mayor Brown thanked all of the speakers for their remarks.

Mayor Brown commented on the difficulties surrounding this case and stated that the Council is committed to correcting the existing problems. Mayor Brown added that the Council is aware of the neighbors' concerns and impacts on their neighborhood.

Discussion ensued relative to the City's intent to record the conditions of approval against the entire subdivision to ensure that they apply to all of the lots, the fact that any changes to this would require a public hearing, the importance of ensuring that the requirements can be easily "tracked" and not overlooked, cost estimates for constructing the wall, and the fact that the City will be responsible for annual maintenance based on a request from the RWCD.

Councilmember Kavanaugh agreed that this issue will be readdressed when similar requests are brought before the Council. Councilmember Kavanaugh commented that the proposed ordinance represents a significant step on the part of the City to provide assistance to the residents and stressed that exceptional efforts have been expended to alleviate concerns and arrive at a mutually acceptable compromise. Councilmember Kavanaugh indicated his support for the adoption of the proposed ordinance and said that he believes the earlier laws and CC&R's remain in place and must be enforced. Councilmember Kavanaugh also concurred that dialogue on this issue must continue.

Councilmember Pomeroy stated the opinion that this case comes as close to a "no-win" situation as any he has encountered during his two year term on the Council and added that he hopes the City of Mesa learns from this experience.

In response to a question from Councilmember Pomeroy, Mr. Mizner outlined The Reeb's Group financial contribution regarding the buffer wall.

Councilmember Davidson expressed the opinion that the time, money and effort that has been expended is appropriate and added that the screening wall will greatly improve the situation. Councilmember Davidson said that he is in favor of proceeding at this time and added that the ordinance represents an initial step and dialogue/review of this matter must continue to further improve this situation in the future.

Vice Mayor Giles stated that this case should serve as a perfect example of the City's willingness to correct their mistakes. Vice Mayor Giles commented that he agrees that the businesses should

ultimately be relocated but said that this process will be on-going.

In response to a question from Vice Mayor Giles, Mr. Beets advised that the proposed ordinance will prevent this type of non-conforming uses from re-occurring.

Vice Mayor Giles advised that he supports the proposed ordinance and stressed the importance of stringent enforcement in the future.

It was moved by Vice Mayor Giles, seconded by Councilmember Davidson, that Ordinance No. 3748 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting and Ordinance No. 3748 adopted.

8. Consider the following subdivision plats:

- \*a. "MAP OF DEDICATION OF RAY ROAD & SOSSAMAN ROAD PHASE I" – The 8600 block of East Ray Road and the 5200-5800 blocks of South Sossaman Road (both sides) Williams Gateway Airport Authority, developer; Agra Infrastructure, Inc., engineer.
- \*b. "MAP OF DEDICATION OF SOSSAMAN ROAD PHASE II" – The 5800-6200 blocks of South Sossaman Road (both sides) Williams Gateway Airport Authority, developer; Agra Infrastructure, Inc., engineer.
- \*c. "MAP OF DEDICATION OF SOSSAMAN ROAD PHASE III" – The 6200-6700 blocks of South Sossaman Road (both sides) Williams Gateway Airport Authority, developer; Agra Infrastructure, Inc., engineer.
- \*d. "VISTA ESTANCIA" – The 3900 block of South Sossaman Road (both sides) 20 R1-35 PAD single residence lots (20.0 acres) Vista Estancia, L.L.C., developer; Clouse Engineering, Inc., engineer.
- \*e. "GRAYSILL CONDOMINIUMS" – The 800 block of South Sycamore (east side) 84 R-4 PAD residential condominium units (4.71 acres) Del Pueblo Homes, Inc., developer; Mulder Surveying P.L.C., engineer.
- \*f. "DANA PARK VILLAGE SQUARE" – The 1600-2000 blocks of South Val Vista Drive (west side) 6 C-2 BIZ DMP commercial lots and 2 C-2 BIZ DMP commercial tracts (69.9 acres) First Regent of Arizona, L.L.C., developer; Agra Infrastructure, Inc., engineer.

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

Kirby Allan addressed the Council relative to the quality of Mesa's water supply and stated the opinion that the water is unfit to drink. Mr. Allen also commented on upcoming ballot issues and presented his thoughts on those issue.

Mayor Brown thanked Mr. Kirby for his remarks.

10. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:17 p.m.

\_\_\_\_\_  
WAYNE BROWN, 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 22<sup>nd</sup> day of February 2000. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2000

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