

COUNCIL MINUTES

October 24, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on October 24, 2005 at 5:45 p.m.

COUNCIL PRESENT	COUNCIL ABSENT	OFFICERS PRESENT
Mayor Keno Hawker Rex Griswold Kyle Jones Tom Rawles Janie Thom Claudia Walters Mike Whalen	None	Mike Hutchinson Barbara Jones Debbie Spinner

Invocation by Father Leonard Walker, Pastor, Queen of Peace Church.

Pledge of Allegiance was led by Councilmember Whalen.

Mayor's Welcome.

Mayor Hawker welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

1. Consider all consent agenda items.

At this time, all matters on the consent agenda were considered or were removed at the request of a member of the Council. All items identified with an asterisk (*) were approved with one Council action.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that the consent agenda items be approved as amended.

Carried unanimously.

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

Minutes from the October 6, 10 (Regular) and 20, 2005 Council meetings. The October 10, 2005 Study Session minutes will be corrected and resubmitted for approval.

2.1 Consider concurring with the City Manager's recommendation regarding the appointment of Gregory Fowler as Interim Police Chief effective January 1, 2006.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that the City Manager's recommendation to appoint Gregory Fowler as Interim Police Chief effective January 1, 2006 be approved.

Carried unanimously.

Assistant Police Chief Fowler addressed the Council and expressed appreciation for being selected to serve as Interim Police Chief. He also recognized Chief Donna for his leadership and years of service, and he added that the City of Mesa Police Department is fortunate to have many exceptional and dedicated employees.

2.2. Correction of statements made the during January 13, 2005 Finance Committee Meeting.

(Councilmember Thom made the following statement to correct comments she made at the January 13, 2005 Finance Committee meeting.)

Councilmember Thom read the following statement into the record:

"I would like to correct some statements that I made during a Finance Committee Meeting on January 13, 2005.

During the Committee Meeting I made comments regarding Larry Woolf and his employment with the City of Mesa; consulting work that Larry performed for the City of Chandler; Larry's involvement in Chandler's decision to remove funds from the Local Government Investment Pool; and advice I thought he provided to invest those funds in other investments. Those comments were based on information that had been provided to me by State Treasurer Dave Petersen. I have since learned that I misinterpreted this information.

I have received a letter from Mr. Woolf and a letter from Pat Walker, the Management Services Director for the City of Chandler.

Based on this information, I would like to correct the record by stating that:

1. Mr. Woolf was not compensated by the City of Chandler as a consultant during his employment for the City of Mesa.
2. Mr. Woolf was not, in any way, involved in Chandler's decision to move money from the LGIP into other investments.

Mayor, I apologize for this error and I would like to make a motion that the January 13, 2005 Finance Committee Minutes reference this statement. This will ensure that anyone reading the minutes will also have an opportunity to read this correction."

It was moved by Councilmember Thom, seconded by Vice Mayor Walters, that the January 13, 2005, Finance Committee Meeting minutes reference this statement in order to ensure that anyone reading the minutes will also have an opportunity to read this correction.

Mayor Hawker requested that Councilmember Thom explain the term "misinterpreted" that was included in her statement.

Councilmember Thom advised that she misunderstood comments made to her by State Treasurer Dave Peterson regarding Larry Woolf.

Mayor Hawker expressed the opinion that Larry Woolf was an outstanding Finance Director, and he stated that he trusted Mr. Woolf implicitly. He added that the information Mr. Woolf provided was always correct. Mayor Hawker advised that he would support Councilmember Thom's motion that acknowledges her error and offers her apology. He also noted that the statement will be referenced and included as part of the record of the January 13, 2005 Finance Committee Meeting.

Mayor Hawker called for the vote.

Carried unanimously.

2.3. Conduct a public hearing prior to the release of the petition for signatures for the following proposed annexation:

2.3a A05-10 (District 5) Annexing land located south of Thomas Road between Hawes and Ellsworth Roads (24.41 ± ac). Initiated by Joseph Courtney representing Signature Properties, LLC for the development of a residential subdivision.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing land located south of Thomas Road between Hawes and Ellsworth Roads (24.41 ± ac).

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

3. Consider the following liquor license applications:

*3a. ROBERT L. NELSON, CHAIRPERSON

Special Event Liquor License application for Robert L. Nelson, Chairperson, Anthology Inc., a one-day charitable event to be held on Friday, October 28, 2005, from 6:00 p.m. to midnight at 236 S. Mesa Dr. District #4.

*3b. ROBERT L. NELSON, CHAIRPERSON

Special Event Liquor License application for Robert L. Nelson, Chairperson, Anthology Inc., a one-day charitable event to be held on Saturday, December 31, 2005, from 12:00 p.m. to 11:59 p.m. at 236 S. Mesa Dr. District #4.

*3c. MICHAEL JOSEPH BIGLEY, PASTOR

Special Event Liquor License application for Michael Joseph Bigley, Pastor, Queen of Peace Catholic Church, a one-day religious event to be held on Sunday, November 6, 2005, from 10:00 a.m. to 6:00 p.m. at 141 N. MacDonald St. District # 4.

*3d. KAREN LINETTE GRUNWALD, CHAIRMAN

Special Event Liquor License application for Karen Linette Grunwald, Chairman, St. Bridget's Catholic Church, a one-day religious event to be held on Friday, February 24, 2006, from 6:30 p.m. to 11:00 p.m. at 2213 N. Lindsay Rd. District # 5.

*3e. SILVIA HERMELINDA ANDRADE, AGENT

New Beer & Wine Bar License for Pancho's Mexican Buffet #67, 1356 W. Southern Ave. This is an existing business. The license previously held at this location by Randy Nations, Agent, Seafood Market & Restaurant closed 2/04/04. District # 3.

*3f. MUSTAFA ABED MANASSRA, INDIVIDUAL

New Beer & Wine Store License for Community Zone Market, 66 S. Mesa Drive. This is an existing building. No current Liquor License at this location. District # 4.

*3g. RICARDO ARTURO MORA, AGENT

New Restaurant License for El Taco Tote Real Mexican Grill, 1050 S. Country Club Drive. This is an existing business. A Beer & Wine Bar License previously held at this location by Rene F. De La Cruz, Agent, Pancho's Mexican Buffet #67 will revert back to the State. District #3.

4. Consider the following Bingo license application – Class B:

- *4a. American Legion Auxiliary, Unit 27
Kathy Falk, President
1018 S. Meridian Road
Apache Junction, AZ 85220
District #6

5. Consider the following contracts:

- *5a. New and Replacement Vehicles for the Fleet Support Services Division and the Utility Gas Division. (State Contract AD 040004).

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$50,382.70.

- *5b. Reclaimed Waterline Connection to Granite Reef Underground Storage Project (GRUSP) – Phase I, City of Mesa Project No. 02-373-001.

This project will provide the first of two segments of reclaimed waterline that will complete the waterline from the Northwest Water Reclamation Plant (NWWRP) to the Granite Reef Underground Storage Project (GRUSP). This segment will extend from the northwest corner of Thomas Road and Val Vista Drive north along the west side of Val Vista Drive under the Red Mountain Freeway (SR 202) to the north end of Val Vista Drive north of the freeway.

Recommend award to low bidder, B&F Contracting, Inc., in the amount of \$567,392.00 plus an additional \$56,739.20 (10% allowance for change orders) for a total award of \$624,131.20.

- 5c. 42-inch and 16-inch Reclaimed Waterlines, Southeast Water Reclamation Plant (SEWRP) to Greenfield Water Reclamation Plant (GWRP) – Phase I, City of Mesa Project No. 02-416-003.

This project will construct the first segment of a reclaimed waterline from the Southeast Water Reclamation Plant (SEWRP) west along Baseline Road to Recker Road, then from Baseline Road south along Recker Road to Ray Road. Improvements include the installation of 23,825 lineal feet of 42-inch and 13,300 lineal feet of 16-inch reclaimed water line.

Recommend award to low bidder, Pierson Construction, in the amount of \$8,044,080.00 plus an additional \$804,408.00 (10% allowance for change orders) for a total award of \$8,848,488.00.

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

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

6. Introduction of the following ordinances and setting November 7, 2005 as the date of the public hearing on these ordinances:

- *6a. Amending Section 11-18-8 of the Zoning Ordinance by adding a fee for Section 106 Reviews, which are required by the *National Historic Preservation Act of 1966*.

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

- *6b. Repealing the existing Personnel Rules applicable to City of Mesa employees and adopting by reference new Personnel Rules.

7. Consider the following resolutions:

- *7a. Approving and authorizing the City Manager to sign Amendment Number One to the Intergovernmental Agreement between the State of Arizona Department of Transportation (ADOT) and the City of Mesa for the pavement of dirt roads at various locations throughout the City of Mesa – Resolution No. 8608.

- *7b. Extinguish a Drainage Easement located at 10136 E. Southern Avenue – Resolution No. 8609.

This easement is no longer necessary as the new development of Coyote Landing Condominiums has dedicated a new drainage easement.

- *7c. Vacate rights-of-way at N. Santa Anna Avenue and N. Santa Barbara Avenue, in the 2000 block of West Main Street.

These portions of the rights-of-way are not needed or necessary. A Public Utility Easement is being retained over the area. CONTINUED TO THE NOVEMBER 7, 2005 CITY COUNCIL MEETING.

- *7d. Grant easements for electric transmission and aerial electric lines to Salt River Project at 9701 East Southern Avenue – Resolution No. 8610.

This easement is necessary for SRP to provide electrical service to the new charter school development.

- *7e. Grant the sale of City-owned property located north of the northeast corner of Southern Avenue and Hawes Road – Resolution No. 8611.

These two lots are no longer needed for the intended purpose of a well site and are being purchased by the adjacent property owner for \$113,000.

- *7f. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the City of Apache Junction to provide two-way radio communication services through the 800 MHz radio system – Resolution No. 8612.

- *7g. Approving the Assessment for Longbow Improvement District No. 242 – Resolution No. 8613.
- *7h. Providing for the issuance and sale of Longbow Improvement District No. 242 improvement bonds – Resolution No. 8614.
- 7i. Authorizing the City Manager to file information relating to the changes in boundaries and the boundaries of newly created taxing jurisdictions with the Department of Revenue and County Assessor – Resolution No. 8618.

Mayor Hawker advised that this is a first step in the process that is required if a future decision is made to implement a property tax, but he noted that this action does not bind the City Council to implement a property tax.

It was moved by Mayor Hawker, seconded by Councilmember Jones, that Resolution No. 8618 be adopted.

Councilmember Rawles emphasized that this Council action does not constitute a vote to implement a tax or a vote to refer a property tax to the voters. He clarified that the City is meeting a technical deadline to provide information in the event the Council decides to implement a property tax or refer the issue to the voters.

In response to a question from Councilmember Thom, City Attorney Debbie Spinner advised that the City must file the information by November 1, 2005 in order to implement a property tax in 2006.

Mayor Hawker called for the vote.

Carried unanimously.

- *7j. Authorizing and approving the City Manager to execute an Intergovernmental Agreement between the Salt River Pima-Maricopa Indian Community and the City of Mesa for contributions totaling \$473,344 to the City of Mesa, Mesa Public Schools, the Marc Center and the Mesa Historical Museum – Resolution No. 8615.
- *7k. Grant the sale of 11.18 acres of City-owned property near Pecos Road and Sossaman Road – Resolution No. 8616.

This property is considered excess and is being sold to Vision Land Holdings, LLC for \$1,095,750.
- *7l. Approving and authorizing the City Manager to execute an Agreement between the City of Mesa and the Mesa Unified School District #4 to pay for salary and benefits of Mesa police officers assigned to be school resource officers in high schools within the City of Mesa – Resolution No. 8617.

7m. Modifying the Mesa Arts Center's fees for adult visual and performing art classes – Resolution No. 8619.

Mayor Hawker advised that several individuals requested to speak to this issue.

Dr. Toni Brucato-Kobet, 7445 East Eagle Crest Drive, addressed the Council in support of staff's recommendation to reduce fees to the summer 2005 level.

Mayor Hawker explained that staff's recommendation includes a 50 percent fee recovery with an additional 10 percent fee for non-Mesa residents.

Douglas Brimhall, 720 North Norfolk Circle, a member of the Museum and Cultural Advisory Board, expressed support for staff's recommendation. He stated the opinion that the City could achieve maximum cost recovery by keeping rates low and classes filled. He also expressed support for public/private partnerships.

Doug Boone, 532 West Century Avenue, Gilbert, stated that most of his disposable income is spent in the City of Mesa. He expressed the opinion that the non-resident surcharge should be eliminated.

There being no additional citizens present wishing to speak on this issue, Mayor Hawker declared the public comment period closed.

Councilmember Jones expressed support for staff's recommendation to establish the Mesa Arts Center's fees for adult art classes at a 50 percent recovery rate with a 10 percent surcharge for non-Mesa residents.

It was moved by Councilmember Jones, seconded by Councilmember Whalen, that Resolution No. 8619 be adopted.

Councilmember Thom stated that everyone wants the Arts Center to succeed, but she noted that many Mesa residents on a fixed income are unable to afford the fees and yet they are being asked to subsidize the classes. She advised that a constituent on a fixed income told her that she was unable to afford an art class. Councilmember Thom further stated that she would not support the motion for that reason.

Mayor Hawker also expressed opposition to the motion. He noted that adult sports programs are presently at 100 percent cost recovery, and he stated the opinion that the adult Arts Center program should have the same policy. He added that the 50 percent cost recovery addresses direct costs and does not include overhead.

Councilmember Jones noted that this is an interim policy, and that the City is investigating partnerships for future art classes.

Councilmember Whalen said that the motion was a compromise that he would support although he would prefer to eliminate the non-resident surcharge.

Councilmember Griswold stated that he would support the motion as an interim step, and he encouraged staff to pursue partnerships in order to provide excellent classes at a lower cost.

Councilmember Rawles clarified that staff's recommendation applies to the fall and spring class schedule. He advised that his decision to oppose the motion is not based on the City's budget crisis. Councilmember Rawles stated the opinion that the costs for adult art classes should be paid by the individuals who participate and those individuals who want to subsidize the participation of others. He further stated that he was personally willing to pay 50 percent of the cost for Councilmember Thom's constituent to take a class, and that other individuals in the community could offer to do the same. Councilmember Rawles cited this proposal as an example of "America's silent slide into Socialism."

Vice Mayor Walters noted that the Council is attempting to improve cost recovery, and she expressed the opinion that this proposal represents a small investment in support of the community's major investment in the Mesa Arts Center. She added that many services provided by the City are not at 100 percent cost recovery.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES – Griswold-Jones-Walters-Whalen

NAYS – Hawker-Rawles-Thom

Mayor Hawker declared the motion carried by a majority vote and Resolution No. 8619 adopted.

8. Consider the following ordinances:

- *8a. Amending Section 11-1-6 "Definitions" and Section 11-13-2 "Supplementary Provisions" of the Zoning Ordinance pertaining to replacement of the term "infill site" with the term "by-passed properties" – Ordinance No. 4467.

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

- *8b. Amending Section 11-18-8 K of the Zoning Ordinance pertaining to the legal protest filing deadline from the Friday noon prior to the City Council public hearing to one week prior to the City Council public hearing – Ordinance No. 4468.

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

- *8c. **A05-08 (District 5)** Annexing land located on the SEC of Hawes and Thomas Roads. (71.76 ± ac.). Initiated by Paul Gilbert representing City View Properties, LLC for the development of a residential subdivision. THE APPLICANT HAS REQUESTED THAT THIS CASE BE CONTINUED TO THE NOVEMBER 7, 2005 CITY COUNCIL MEETING.

*8.1 Considering authorizing the use of General Fund Lease Purchase financing to cover the cost incurred with the construction of the East Mesa Conduit Loop segments and related infrastructure associated with the Ellsworth Road Widening/Utility Extension joint project with Maricopa County Department of Transportation.

The estimated total cost of this project is \$1,983,260, plus an additional \$198,326 (10% allowance for change orders) for a total of \$2,181,586.

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

9a. **Z04-105 (District 6)** The 1600 block of South Signal Butte Road (west side). Located south of US 60 and west of Signal Butte Road (91± ac.). Requesting a Council Use Permit to allow the development of a Freeway Landmark Monument sign in conjunction with the construction of group commercial center – Ordinance No. 4471. (*Contacted registered neighborhoods*).

P&Z Recommendation: Approval with conditions. (Vote: Passed 5-1-1 with Finter nay and Carpenter absent).

DRB Recommendation: Approval with conditions. (Vote: Passed 5-0-1 with DiBella abstaining).

It was moved by Councilmember Whalen, seconded by Councilmember Griswold, that Ordinance No. 4471 be adopted.

Mayor Hawker stated that he would oppose the motion, which was consistent with his prior opposition to all Freeway Landmark Monument signs.

Vice Mayor Walters noted that this case was brought back before the Council to address a technical correction, and that she would again vote in opposition to the sign.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by a majority vote and Ordinance No. 4471 adopted.

*9b. **Z05-86 (District 4)** 1316 East Southern Avenue (north side). Located on the northwest corner of East Southern Avenue and South Doran Street (1.13ac). Rezone from O-S to C-1 and Site Plan Review. This request will allow for the development of a commercial building with ancillary office and warehouse spaces – Ordinance No. 4469. (*Held neighborhood meeting and contacted neighbors*).

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Finter abstaining).

- *9c. **Z05-87 (District 6)** 7115 East Baseline Road (south side). Located south of Baseline Road and east of Superstition Springs Boulevard (2.1 ac). Rezone from AG to C-2 and Site Plan Review. This request will allow for the development of a retail/office complex. *(Mailed written notifications to property owners and registered neighborhood associations)*. CONTINUED TO THE OCTOBER 27, 2005 SPECIAL CITY COUNCIL MEETING.

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

- *9d. **Z05-88 (District 5)** The 8400-8700 block of East Range Rider Trail (north and south side). Located at the southeast corner of Thomas Road and Hawes Road (71.76 ac). Rezone from Maricopa County Rural 35 to City of Mesa R1-35. Establishment of City zoning. THE APPLICANT HAS REQUESTED THIS CASE BE CONTINUED TO THE NOVEMBER 7, 2005 CITY COUNCIL MEETING.

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

- *9e. **Z05-90 (District 6)** The 8800-9000 block of East Germann Road (north side). Located west of the northwest corner of Germann Road and Ellsworth Road (49 ac. ±). Rezone from M-1 to M-1 PAD and site plan review. This request is to allow for a light industrial complex – Ordinance No. 4470. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations)*.

P&Z Recommendation: Approval. (Vote: 6-0 with Boardmember Finter abstaining).

10. Consider the following subdivision plats:

- *10a. **"Arriva Condominium Homes" (District 5)** The 1300 block of North Recker Road (west side) located north and west of Brown Road and Recker Road. 152 R-3 PAD condominium units (7.02 ac) A.P. Partners, LLP, Martyn White, President, owner; Keogh Engineering, Inc. engineer.
- *10b. **"Dobson Plaza" (District 3)** The 0-100 block of South Dobson Road (west side) located south and west of Main Street and Dobson Road. Three (3) C-3 commercial lots (8.91 ac) Dobson and Main L.L.C., Marko C. Burns and Bruce I. Shapiro, Managers, owner; Superior Surveying Services Inc., engineer.
- *10c. **"Beverly Pointe" (District 3)** The 0-100 block of North Alma School Road (east side) 30 R-3 PAD single residence lots (2.32 ac) Beverly Point, LLC, Tim Holt, Member, owner; Landdev Engineers, engineer.

11. Items from citizens present.

Peter J. O'Malley, 321 North Higley Road, addressed the Council and expressed opposition to higher taxes and big government. He encouraged the Council to oppose the implementation of a property tax.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:35 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 24th day of October 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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