

COUNCIL MINUTES

September 7, 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 September 7, 1999 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

POLICE OFFICER
PRESENT

Lyle Burton

OFFICERS PRESENT

C.K. Luster
Neal Beets
Barbara Jones

Invocation by Reverend Donna Buckles, Church of the Saviour.

Pledge of Allegiance was led by Officer Lyle Burton.

1. Approval of minutes of previous meetings as written.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, that the minutes of June 17, 1999 and August 2, 1999 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. LEANOR P. PETERSON, AGENT

New Beer and Wine Store License for Arco AMPM, 320 E. Baseline Road. This is an existing business and building. The Beer and Wine Store License previously held at this location by Sam J. Moccero, Agent, Prestige Stations, Incorporated will revert back to the State.

4. Consider the following contracts:

- a. Notebook Computers for the Police Department (PD) as requested by the Information Services Division (ISD). Purchase of these notebook computers will begin a phased-in notebook standardization process for the Police Department.

The Purchasing Division recommends establishing a one year supply contract, with the option to extend the contract for two additional one-year terms, for 205 Panasonic Notebook Computers with CLH International as the primary supplier, for a total of \$1,067,598.96, including applicable sales tax, based on estimated requirements for the next twelve months. In order to assure continuity of supply, the Purchasing Division also recommends awarding a secondary supply contract to MicroAge. The secondary supplier will be utilized in the event that the primary supplier cannot meet the City's requirements for a specific order.

The Purchasing Division further recommends authorizing purchase from the State of Arizona contract with ASAP Software Express for MS Office 2000 for a total of \$62,591.66, including 5% use tax. The combined total award is then \$1,130,190.62.

Police Commander Dennis Donna provided the audience with a brief overview of this agenda item and explained the benefits of purchasing the notebook computers for the Police Department.

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

Carried unanimously.

- b. Gas System Replacement at Conquistador Village – 2554 McKellips Road. City of Mesa Project No. 97-66.

This project consists of replacing the gas system at an existing mobile home park located north of McKellips Road and east of Lindsay Road.

Recommend award to low bidder Mastec, North America, Inc., in the amount of \$383,159.00.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter currently 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 recommendation 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.

c. 1999/2000 Crack Seal Project, Phase I. City of Mesa Project No. 00-06.

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 \$416,095.58.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter currently 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 recommendation 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.

d. Robson and Fraser Substation Upgrades.

This project consists of upgrading the Robson and Fraser Substations to install electronic relays, control panels, additional circuit breakers, and secondary oil containment.

Recommend award to low bidder, ESS International, in the amount of \$593,994.

Councilmember Davidson indicated that he had a potential conflict of interest in connection with the matter currently 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 Kavanaugh, that the recommendation of staff be approved.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

5. Introduction of the following ordinances and setting September 21, 1999 as the date of the 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. **A98-5** Annexing the property on the south side of East McDowell Road from North Waterbury Road east to North 90th Street.

Councilmember Jaffa expressed concerns relative to the fact that the applicant is proposing to construct homes on 18,000 square foot lots. Councilmember Jaffa noted that the proposed lot sizes are not in conformance with the Desert Upland Guidelines and indicated his intention to further discuss his concerns with the applicant.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that introduction of Case A98-5 be approved.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried by majority vote.

- *b. Pertaining to the subdivision regulations; amending Title 9, Chapter 6, Section 5 of the Mesa City Code expanding the boundaries of the Desert Uplands area establishing native plant preservation standards; and providing penalties for the violation thereof.
- *c. Amending Title 4, Building Regulations; adopting a new Chapter 11 Grading Permits: Desert Uplands area; and providing penalties for the violation thereof.

6. Consider the following resolution:

- *a. Setting the time for a hearing on assessments for Special Improvement District No. 239, for street improvements along portions of North Brimhall Street between East Lehi Road and East Nance Street – Resolution No. 7422.

7. Consider the following ordinances:

- a. Amending Title 2, Chapter 18 of the Mesa City Code by adding Sections 2-18-2, 2-18-3, 2-18-4, 2-18-5, and 2-18-6; and preserving rights and duties that already have matured and proceedings that already have begun under the existing procedures – Ordinance No. 3687.

This ordinance adopts Rules of Procedure for the Personnel Appeals Board.

Tom O'Brien, 615 North Elm, addressed the Council relative to this agenda item and stated the opinion that the proposed amendments are inadequate and violate due process rights. Mr. O'Brien commented that he has a pending lawsuit filed against the City of Mesa and said that he has been denied due process of law. Mr. O'Brien recommended that the Council forward the proposed ordinance to a Committee for further consideration and modifications. Mr. O'Brien requested that the statement prohibiting pre-hearing discovery be deleted from the proposed ordinance and stressed the importance of providing employees with an opportunity to gather evidence in his/her defense of allegations. Mr. O'Brien highlighted additional recommended changes to the proposed ordinance and emphasized the importance of permitting subpoena authority.

In response to a request from Mayor Brown, City Attorney Neal Beets confirmed that Mr. O'Brien does have a pending law suit filed against the City and said that this ordinance would not affect Mr. O'Brien's case since, if adopted, it will apply to cases that are filed from the effective date of the ordinance forward. Mr. Beets responded to recommendations listed by Mr. O'Brien and stated the opinion that the proposed ordinance is fair and lawful and provides opportunity to appeal the Board's decisions.

Discussion ensued among the members of the Council and Mr. Beets regarding the content and intent of the proposed ordinance.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that Ordinance No. 3687 be adopted.

Carried unanimously.

- b. Relating to Public Health, Safety and Transportation; amending Section 10-1-1 and adding a new Section 10-1-18, to the Mesa City Code; and providing penalties for violations – Ordinance No. 3688.

This ordinance establishes regulations for motorized skateboards.

Spencer Laurino, 2570 West Medina, requested that the Council revise the proposed speed limit for motorized skateboards from 30 to 45 miles-per-hour. Mr. Laurino explained that in order for him to ride to the Library at Dobson Ranch, he is required to cross Dobson Road, where a speed limit of 45 miles-per-hour is enforced. Mr. Laurino thanked the Council for their consideration.

Barbara Malaj, 7426 East Mesa, informed the Council that she purchased a motorized skateboard for her 13-year old son and said that if the proposed ordinance is adopted, he will not be able to use this mode of transportation until he reaches the age of 14. Ms. Malaj stated the opinion that responsibility is not governed by age alone and that certain 13 year old youths may be more responsible than 17 year old

licensed drivers. Ms. Malaj requested that the Council consider a delayed effective date and recommended that rather than requiring the skateboard riders to carry written, notarized parental permission, parents be required to register the vehicles at the Police Department.

Mayor Brown thanked the speakers for their remarks and requested that Councilmember Pomeroy, who serves as Chairman of the Police Committee, provide input regarding this matter.

Councilmember Pomeroy commented on the public hearings and input that was received regarding this issue and said that the Police Committee also reviewed recommendations from the Police Department. Councilmember Pomeroy stated that his personal preference would be to require the riders of motorized skateboards to be a minimum of 16 years-of-age and expressed the opinion that this age limit would provide some assurance of maturity and increase the likelihood that the riders have undergone some school-sponsored traffic safety training. Councilmember Pomeroy informed those present that his approval of allowing 14 year old riders is based on the requirement that the parents provide written notarized verification that their children have received at least basic traffic safety training. Councilmember Pomeroy stated that the Police Committee's recommendation, by a two-to-one vote, is for approval of the proposed ordinance as written.

Councilmember Davidson commented that although he appreciates the extensive efforts that have been expended on this issue, he does not support the adoption of the proposed ordinance. Councilmember Davidson noted that the proposed ordinance will restrict the riding of motorized skateboards to after 7:00 a.m. and before 8:00 p.m. and expressed the opinion that this limitation should address and resolve a majority of noise concerns that have been expressed. Councilmember Davidson emphasized that the safety of children is the priority issue at hand and expressed concerns relative to the welfare of the City's youths. Councilmember Davidson urged the Council to vote in opposition to the proposed ordinance and recommended that the Council implement a total ban on motorized skateboards in the public right-of-way throughout the City of Mesa.

Vice Mayor Giles advised that he also serves as a member of the Police Committee and expressed appreciation to everyone who has been involved in this lengthy issue. Vice Mayor Giles stated that he cannot support the adoption of the ordinance as proposed and stated the opinion that requiring riders to carry in their possession written, notarized statements from their parents is inappropriate and will not be effective. Vice Mayor Giles added that as the parent of both a 10 and 12 year-old, he believes that maturity levels vary and decisions such as allowing youths under the age of 14 to operate motorized skateboards should be the decision of the parents rather than government. Vice Mayor Giles said that although he endorses the concept of regulating motorized skateboards, he cannot support the ordinance based on the 14 year old operator age requirement.

Councilmember Kavanaugh expressed the opinion that the proposed ordinance is fair and reasonable and designed to minimize risk and encourage safety. Councilmember Kavanaugh added the opinion that the notarized statements requirement will serve as preparation for driver training processes that the City's youths will participate in in the future. Councilmember Kavanaugh said that he supports the recommendations of the Police Committee.

Mayor Brown concurred with Councilmember Kavanaugh's comments.

Councilmember Hawker stated that motorized skateboards do not contain mufflers and do generate a significant amount of noise. Councilmember Hawker also expressed concerns regarding the visibility of the skateboards on the road and stressed the importance of requiring safety training for the riders.

Councilmember Hawker said he supports the safety gear requirement and the limitations on hours of operation and stated the opinion that the notarized statements will compel parents to acknowledge that their child will be the operator of a motorized skateboard and encourage traffic safety training. Councilmember Hawker indicated that he will support the adoption of the ordinance based on the notarized statement requirement.

It was moved by Councilmember Pomeroy, seconded by Councilmember Kavanaugh, that Ordinance No. 3688 be adopted.

Councilmember Jaffa stated the opinion that parental involvement should remain a priority and indicated that he is not opposed to allowing youths 13 years of age and older to operate the motorized skateboards. Councilmember Jaffa spoke in support of requiring the notarized statements and said he will vote in support of the adoption of the ordinance.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried by majority vote and Ordinance No. 3688 adopted.

(Mayor Brown acknowledged the presence of the members of the Mesa Leadership, Training and Development program, Class of 2000, and expressed appreciation to the group for their participation and interest in serving the City of Mesa.

- c. Amending Section 11-17-6 pertaining to the parking or storage of recreational vehicles in parks and subdivisions, and Section 8-6-3 pertaining to the storage of watercraft, utility trailers, camper shells, and truck campers on residential lots – Ordinance No. 3689.

Community Development Manager Wayne Balmer informed the Council that this issue has been the subject of increasing concern throughout the City, particularly in older neighborhoods. Mr. Balmer said that the storage of items in front yards is a frequent topic and noted that in accordance with current regulations, boats, camper shells, utility trailers and other items may be stored in homeowners' front yards. Mr. Balmer informed the Council that the lack of regulations addressing front yard storage has resulted in diminished visibility in certain areas and has generated a significant amount of complaints from neighbors regarding the aesthetics of the neighborhood.

Mr. Balmer commented that staff is recommending four changes to the existing regulations: 1) recreational vehicles (RV's) which are currently permitted to be stored in the rear ¼ of homeowners' yards may also be placed in the buildable area of the lot, but behind the front of the house (side yard); 2) camper trailers and RV's, boats and utility trailers will all be subject to current RV requirements and must be stored in the rear ¼ of the lot; 3) RV's may be placed in the side yard, however items that are taller than six (6) feet in height must be screened from the street by a solid fence or gate, and 4) proposed regulations on storing RV's and boats in apartment projects and/or commercial areas.

Code Compliance Supervisor Bill Petrie and Zoning Administrator John Gendron, highlighted a brief slide presentation on the current and proposed regulations.

Discussion ensued relative to difficulties involved in implementing a "grandfather clause," the fact that since 1978, the City of Mesa has required a minimum of a 10-foot side yard setback, and the fact that apartments and/or townhomes may establish their own regulations but cannot allow recreational items to be stored in the front yard.

Councilmember Hawker noted that a six-foot high fence will not block a neighbor's view of a ten-foot high boat in an adjoining side yard and recommended that the owners of recreational vehicles be required to seek the approval of their neighbors to store vehicles in the side yards. Councilmember Hawker indicated that he cannot support the proposed ordinance without the addition of this option.

Bob Power, 2235 North Gentry, spoke in opposition to the adoption of the proposed ordinance and stated the opinion that staff's reports fail to address possible economic and/or social impacts. Mr. Power commented on the lack of available storage facilities within the City and added that a significant amount of homes were built in such a manner that the side yards cannot accommodate storage. Mr. Power also noted that the ordinance will be enforced on a citizen complaint-generated basis, and said that this method will not encourage neighborhood harmony. Mr. Power informed the Council that although he would be able to store his recreational vehicles in the side yard, it would require the removal of existing citrus trees and indicated his unwillingness to remove the mature landscaping.

Councilmember Davidson said that although he agrees with Councilmember Hawker's remarks regarding the storage of recreational vehicles in side-yard areas and the effect of that storage on a neighbor's side view, in his opinion the placement of the vehicles in the rear yards will impact a greater number of neighbors than side-yard storage. Councilmember Davidson advised that he will support the adoption of the proposed ordinance.

Vice Mayor Giles stated the opinion that in the interest of fairness, the proposed ordinance should be adopted. Vice Mayor Giles noted that the proposed ordinance is less restrictive in many areas although it may negatively impact boat owners. Vice Mayor Giles commented that he will support staff's recommendations.

Councilmember Jaffa informed those present that without the inclusion of a "hardship" clause to exempt those citizens who purchased property and/or recreational vehicles in accordance with Code requirements that were in effect at the time of the purchase, he will not vote in support of the proposed amended regulations.

It was moved by Vice Mayor Giles, seconded by Councilmember Davidson, that Ordinance No. 3689 be adopted.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried by majority vote an Ordinance No. 3689 adopted.

8. Consider the following case from the Design Review Board:

- a. Appeal of the Design Review Board's case number DR99-65 for an Osco store at 415 South Signal Butte.

Dennis Hultman, 10741 East Broadway, addressed the Council relative to this agenda item and expressed the opinion that the Council should overrule the decision of the Design Review Board regarding this case and deny the applicant's request to develop an Osco store at that location.

Mr. Hultman displayed photos of the site and stated the opinion that the applicant has been unwilling to work with the neighbors to address issues of concern. Mr. Hultman stated the opinion that the proposed store will create safety hazards and result in a decrease in value for the residential properties located in the area. Mr. Hultman proposed that the applicant be required to construct an alternate entrance to the proposed store.

In response to a request from Mayor Brown, City Attorney Neal Beets provided a brief overview of the Design Review Board's process and stated the opinion that the Council's responsibility is to determine whether the Design Review Board erred in their decision regarding this case. Mr. Beets added that should the Council determine that the Board acted appropriately, a motion to affirm their decision should be made and added that any finding of error on the part of the Board would result in a motion to modify or reverse their decision.

Councilmember Kavanaugh stated the opinion the Design Review Board has not erred in their deliberations and said that he will defer to the Board's recommendations regarding this case.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, that the Council affirm the decision of the Design Review Board and deny the applicant's request to reverse/modify the Board's decision.

Councilmember Jaffa stated that in his opinion the Design Review Board did in fact err in their decision in view of the stipulations that were proposed and said that he will not vote in support of the motion.

Upon tabulation of votes, it showed:

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

Mayor Brown declared the motion carried by majority vote.

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

- a. **Z99-50** The 1200 and 1300 blocks of North 72nd Street (west side). Rezone from R1-35 to R1-15-PAD (28± acres). This case involves the development of a single residence subdivision. Paul A. Wetzel, owner; Todd Tucker, applicant. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST** – Ordinance No. 3690.

P & Z Recommendation: Approval with conditions (Vote: Passed 4-2 - Parker, Kathe nay).

1. Compliance with the basic development as described by Boardmember Brock and as described in the project narrative, except as noted below.
2. Compliance with the Residential Development Guidelines.

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. 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.
6. All street improvements (including the proposed street stub) and perimeter landscaping to be installed in the first phase of construction.
7. Compliance with all requirements of the Subdivision Technical Review Committee.
8. The subdivision design to have a target density of approximately 1.5 du/ac with lots along the northern side of the subdivision to be in the range of 30,000 sq. ft. and lots along the southern side of the subdivision to be reduced slightly in size from the currently proposed 15,065 sq. ft.; homes along the southern tier of the subdivision to be single story; provide a street stub to connect to a future subdivision in the out-parcel which is to have a conceptual design as a single residence subdivision with the same criteria as the subject site.

David Johnson, 160 North Pasadena, represented the applicant relative to this agenda item. Mr. Johnson discussed the fact that the narrow strip of land contains a varying development pattern throughout and will be a challenging parcel to develop. Mr. Johnson noted the undesirable activities that currently exist in and around the vacant site at this time and stated the opinion that the proposed project will enhance the safety and aesthetics of the neighborhood. Mr. Johnson informed the Council that the project proposal originally contained plans for a total of 71 lots but said that in response to density concerns expressed by the neighbors that amount was reduced to 54. Mr. Johnson discussed additional negotiation efforts that have been expended and reported that the applicant has agreed to limit the number of units to 48.

In response to a question from Councilmember Pomeroy, Community Development Manager Wayne Balmer confirmed that staff's recommendation is that the case be denied. Mr. Balmer noted that the parcel is an infill piece of property and informed the Council that the property located to the north is a subdivision zoned R1-35 that was developed in the County. Mr. Balmer said that the County has expressed an interest in lots that contain at least the size of this parcel to accommodate animals. Mr. Balmer pointed out that the subdivision property does not extend all the way west to Power Road and leaves a piece of property between their western property line and Power Road. Mr. Balmer added that the parcel lines up with the commercial property that would be south of this property. Mr. Balmer said that staff's concern is that allowing that piece of property to remain an "out parcel" may eventually result in a future zoning request to extend that commercial zoning south to the north, creating a larger commercial site, office, or other type of site, with the applicant's contention being that there is no access to the subdivision to the north or to the east. Mr. Balmer added that staff also has concerns regarding transition and noted that 9,000 square foot lots are located to the south and acre lots are located to the north. Mr. Balmer noted that this property is also zoned medium low density residential in the City's General Plan and said the proposal is unable to attain targeted density levels of two units to the acre (34 lots).

Mr. Balmer noted that the applicant's plan was then modified to reflect the criteria requested by the Planning and Zoning Board and said that the neighbors have approved the revised proposal and rescinded their signatures in protest to this case. Mr. Balmer said that a $\frac{3}{4}$ vote of the Council is no longer required to approve this case.

In response to a request from Councilmember Jaffa, Mr. Johnson outlined proposed amenities that would be included in the project. Councilmember Jaffa stated the opinion that the applicant should not be penalized for the future development of property that is not under his control. Councilmember Jaffa noted that the property is bordered on two sides by older R1-9 zoning and added that the applicant has agreed to carefully transition from those 9,000 square foot lots to the north. Councilmember Jaffa stated the opinion that the project would represent a significant improvement to the area and said that he supports the applicant's proposal.

It was moved by Councilmember Jaffa, seconded by Vice Mayor Giles, that Ordinance No. 3690 be adopted.

Councilmember Kavanaugh indicated his opposition to the approval of this case and stated that the standards and requirements that were established when the City Council adopted the City's Residential Development Guidelines should remain in force. Councilmember Kavanaugh said that he supports staff's recommendation that the case be denied.

Councilmember Davidson commended staff on their recommendation to abide by the conditions of the Residential Development Guidelines and stated the opinion that the word "infill" is often misused. Councilmember Davidson indicated that he will not support the motion to approve.

Vice Mayor Giles informed the Council that he too supports the Residential Development Guidelines but expressed the opinion that the City Council has a responsibility to review each proposal on a case-by-case basis to determine whether the project is appropriate for the proposed location. Vice Mayor Giles stated that he supports the project and commended the applicant on his willingness to negotiate with the residents in the area. Vice Mayor Giles added that in his opinion the project represents a logical transition.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried by majority vote and Ordinance No. 3690 adopted.

- b. **Z99-53** The 500 block of West McKellips Road (south side). Rezone from C-3 to C-2 and Site Plan Modification (4.59 acre). This case involves the development of a mini-storage and gas station. Quicktrip Corporation, owner; Ralph Pew, applicant – Ordinance No. 3691.

P & Z Recommendation: Approval with conditions (Vote: Passed 4-1-1 - Parker nay; Brock abstain)

1. Compliance with the basic development of only the convenience store with gas pumps as shown on the site plan and elevations submitted, except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
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. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Recordation of cross-access and reciprocal parking easements.
8. Compliance with all requirements of the Design Review Board.
9. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan and an automobile service station.
10. Compliance with Sean Lake's letter of July 6, 1999.

Sean Lake, an attorney representing the applicant, addressed the Council relative to this agenda item. Mr. Lake informed the Council that the site plan was modified to allow the development of a mini-storage facility in addition to the service station. Mr. Lake provided a brief overview of the extensive negotiation efforts that were expended regarding this proposal and requested that the Council approve this case.

It was moved by Councilmember Pomeroy, seconded by Vice Mayor Giles, that Ordinance No. 3691 be adopted.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried by majority vote and Ordinance No. 3691 adopted.

- *c. **Z99-69** 280 West Southern Avenue. Rezone from C-2 to C-3 and Site Plan Review (2± acres). This case involves the development of a rental store. A Advance Stor N Lock, Inc., owner; Stephen C. Earl, applicant – Ordinance No. 3677.

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 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, 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. Compliance with the letter dated July 2, 1999.

- *d. **Z99-70** West of the northwest corner of Baseline Road and Country Club Drive. Site Plan Modification (2± acres). This case involves the modification of a previous site plan in order to allow development of a Walgreen's store. Country Club and Juanita, L.L.C., owner; Evergreen Devco, Inc., applicant – Ordinance No. 3678.

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

1. Compliance with the basic development as discussed in the project narrative and as shown on the 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 application for a building permit, or at the time of the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Subdivision Regulations.
6. Recordation of cross-access and reciprocal parking easements as necessary.
7. Compliance with all requirements of the Design Review Board.
8. Building to be architecturally compatible with the existing medical office.

*e. **Z99-71** The northwest corner of Power and Thomas Roads. Site Plan Modification (3± acres). This case involves the development of a Walgreen's store. Ronald V. Genovese, owner; Evergreen Devco, Inc., applicant – Ordinance No. 3679.

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

1. Compliance with the basic development of the Walgreen's store only, as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below.
2. Site plan review and approval through the Planning and Zoning Board and City Council of future development.
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. 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.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Redesign the landscape and building design to reflect a southwest theme.
8. Compliance with all requirements of the Design Review Board.
9. Revegetate the site with salvageable cacti and trees from the site as much as possible.
10. Owner granting an Avigation Easement and release to the City, pertaining to Falcon Field Airport which will be prepared by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

*f. **Z99-72** The northwest corner of Southern Avenue and Crismon Road. Rezone from R1-43 to C-2 (4.5± acres). This case involves the development of a Walgreen's store. Southern and Crismon Road Property, owner; Evergreen Devco, Inc., applicant – Ordinance No. 3680.

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. Review and approval by the Design Review Board of future development plans.
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. All future buildings to be architecturally compatible with the Walgreen's.

*g. **Z99-73** The southeast corner of Crismon and Broadway Roads. Rezone from R1-9 (Conceptual C-2) to C-2 (1.5± acres). This case involves the development of a convenience store with gas station, car wash, and drive-thru restaurant. Suheil I. Arbid, owner; Jay Marconi, applicant – Ordinance No. 3681.

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

1. Compliance with the basic development as shown on the 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 application for a building permit, or at the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Design Review Board.
6. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps and a car wash.

h. **Z99-74** The southeast corner of Hermosa Vista Drive and 80th Street. Rezone from R1-35 to R1-35-PAD (40± acres). This case involves the development of a custom home subdivision. William Jaffa and Jerry Newsome, owners; Chris Anderson, applicant – Ordinance No. 3692.

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 submitted, except as noted below.
2. Compliance with the Residential Development Guidelines.
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. 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.
6. 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 currently 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.

Carol Owens, a resident of Apache Junction, addressed the Council and expressed support for approval of the applicant's request. Ms. Owens stated the opinion that the proposal will serve as a future model

for development in Desert Uplands area. Ms. Owens requested that additional care be extended in an around bird nesting sites between the months of February and September. Ms. Owens commended the developer for recognizing the importance of protecting plant and wildlife in this area.

Jason Morris, an attorney representing the applicant, expressed the opinion that the project currently under consideration will represent a premiere residential development in Mesa and urged the Council to approve this case.

Councilmember Davidson commended the developer on his efforts to address environmental issues and encouraged the developer to expend similar creative effort in striving to develop original housing designs that will complement the uniqueness of the Desert Uplands area.

Councilmember Kavanaugh stated that he will support the proposal and commended the applicant on his efforts to preserve the environment and develop a high-quality project.

It was moved by Vice Mayor Giles, seconded by Councilmember Davidson, that Ordinance No. 3692 be adopted.

Upon tabulation of votes it showed:

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

Mayor Brown declared the motion carried unanimously by those voting and Ordinance No. 3692 adopted.

*i. **Z99-75** Lot 3 of "East Valley Auto Mall." Site Plan Review (4± acres). This case involves the development of an auto body facility. Chuck and Leslie Danilson, owner/applicant – Ordinance No. 3682.

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. Review and approval by the Design Review Board of future development plans.
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. Phase II to be architecturally compatible with the main building.
7. A 10' landscape buffer be provided around the entire site with shrubs being omitted behind the 8' fenced area.

*j. **Z99-76** The northwest corner of McKellips Road and Harris Drive. Rezone from O-S and C-2 to C-1 (2.5 acres). This case involves the development of an office complex. Ralph Larson, owner/applicant – Ordinance No. 3683.

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

1. Compliance with the basic development as shown on the 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. Compliance with all requirements of the Design Review Board.
5. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.

- *k. **Z99-77** The northwest corner of Greenfield Road and University Drive. Site Plan Modification (11± acres). This case involves a modification to an approved retail center to allow the development of an Osco Drug. William Wolf, owner; L.E.A.D.S., applicant – Ordinance No. 3684.

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 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, 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 (for a land split).
5. Compliance with all requirements of the Design Review Board.
6. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans for the commercial property north and west of Osco.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision maps, prior to the issuance of a building permit).

- *l. **Z99-78** The southwest corner of Greenfield Road and Pueblo Avenue. Site Plan Modification (2± acres). This case involves a modification to a site approved for an assisted living facility to allow the development of an office complex. Stapley Commercial Real Estate, owner; Phil Stapley, applicant – Ordinance No. 3685.

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

1. Compliance with the basic development 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.

- *m. **Z99-79** The northeast corner of 24th Street and Mallory. Rezone from R1-35 to R1-15-PAD (20 ± acres). This case involves the development of a 36 lot single residence subdivision. Blue Spruce Investment, Ltd., owner; Mark Allen, applicant – Ordinance No. 3686.

P & Z Recommendation: Approval with conditions (Vote: Passed 5-1 (Parker nay)).

1. Compliance with the basic development as described in the project narrative and as shown on the preliminary plat submitted, except as noted below.
2. Compliance with the Residential Development Guidelines.
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. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
6. Compliance with all requirements of the Subdivision Technical Review Committee.

10. Consider the following subdivision plats:

- *a. "SAN MICHELLE"- The 1500 block of South Higley Road (east side) 148 R-2-PAD patio home lots (22.1 acres) Great Western Communities, Inc., developer; Musser Engineering Consultants, Inc, engineer.

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

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

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:46 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 7th day of September 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