



COUNCIL MINUTES

July 12, 2006

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on July 12, 2006 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

Councilmember Griswold participated in the meeting through the use of teleconferencing equipment.

Invocation by Councilmember Jones.

Pledge of Allegiance 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. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

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

Carried unanimously.

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

Minutes from the June 1, June 15, July 5 and July 6, 2006 Council meetings.

3. Take action on the City Manager's recommendation to appoint George Gascon as Police Chief.

City Manager Christopher Brady stated that it was his privilege to recommend that George Gascon be appointed Police Chief for the City of Mesa. He commented that Mr. Gascon has many years of experience with the Los Angeles Police Department and will bring a high level of professionalism to the City of Mesa. Mr. Brady also noted that Mr. Gascon has gained expertise in assessing the performance of a police department and analyzing the most efficient manner in which to utilize its resources to better serve the community.

Phil Austin, 215 North Robson Street, voiced support for the appointment of Mr. Gascon and urged the Council to approve the City Manager's recommendation.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that George Gascon be appointed Police Chief for the City of Mesa.

Carried unanimously.

Mayor Hawker invited newly appointed Police Chief Gascon to address the Council.

Chief Gascon expressed appreciation to the Council and Mr. Brady for his appointment. He stated that it is an honor for him to have been selected as Mesa's Police Chief and would work to the best of his ability to meet the expectations of those who appointed him.

Mayor Hawker congratulated Chief Gascon and welcomed him to the City of Mesa. He also thanked Interim Police Chief Greg Fowler for his service during the City's recruitment process for a Police Chief.

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

- a. **A06-14 (District 5)** Annexing land located on Main Street east of Ellsworth Road (0.17 ± ac.). Initiated by Geff Gunsalus, representing the property owner.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing land located on Main Street east of Ellsworth Road (0.17 + ac.).

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

5. Take action on the following liquor license applications:

- *5a. Albertson's # 942

Person-to-Person Transfer Liquor Store License for Albertson's # 942 at 1919 West Main Street, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor

Store license previously held at this location by Albertson's, Inc., issued 08/11/1989, will transfer to the applicant. District # 3.

*5b. Albertson's # 948

Person-to-Person Transfer Liquor Store License for Albertson's # 948 at 441 North Val Vista Drive, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 09/24/1990, will transfer to the applicant. District # 2.

*5c. Albertson's # 958

Person-to-Person Transfer Liquor Store License for Albertson's # 958 at 325 South Power Road, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 01/06/1993, will transfer to the applicant. District # 6.

*5d. Albertson's # 980

Person-to-Person Transfer Liquor Store License for Albertson's # 980 at 1951 West Baseline Road, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 09/10/1997, will transfer to the applicant. District # 3.

*5e. Albertson's # 989

Person-to-Person Transfer Liquor Store License for Albertson's # 989 at 2727 North Power Road, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 05/24/1999, will transfer to the applicant. District # 5.

*5f. Albertson's # 993

Person-to-Person Transfer Liquor Store License for Albertson's # 993 at 445 North Stapley, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 01/18/2000, will transfer to the applicant. District # 2.

*5g. Albertson's # 1002

Person-to-Person Transfer Liquor Store License for Albertson's # 1002 at 9243 East Baseline Road, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Liquor Store license previously held at this location by Albertson's, Inc., issued 02/27/2001, will transfer to the applicant. District # 6.

*5h. Wal-Mart Store # 2482

New Liquor Store License for Wal-Mart Store # 2482 at 1305 West Main Street, Wal-Mart Stores, Inc. – Applicant, Clare Hollie Abel – Agent. This is an existing business with no previous Liquor license at this location. District # 3.

*5i. Albertson's Express # 948

New Beer & Wine Store License for Albertson's Express # 948 at 461 North Val Vista Drive, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Beer & Wine Store license previously held at this location by Albertson's, Inc., issued 08/27/1999, will revert back to the State. District # 2.

*5j. Albertson's Express # 993

New Beer & Wine Store License for Albertson's Express # 993 at 415 North Stapley, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Beer & Wine Store license previously held at this location by Albertson's, Inc., issued 01/20/2000, will revert back to the State. District # 2.

*5k. Albertson's Express # 1002

New Beer & Wine Store License for Albertson's Express # 1002 at 9241 East Baseline Road, Albertson's LLC – Applicant, Glenn Allen Edmondson – Agent. The Beer & Wine Store license previously held at this location by Albertson's, Inc., issued 02/27/2001, will revert back to the State. District # 6.

*5l. 7-Eleven # 26330B

New Beer & Wine Store License for 7-Eleven # 26330B at 2810 East Baseline Road, Vaneet Sapra – Applicant. The Beer & Wine Store license previously held at this location by John Lonsinger, issued 09/15/2003, will revert back to the State. District # 2.

*5m. Speedsmart Chevron

New Beer & Wine Store License for Speedsmart Chevron at 1951 East Brown Road, Speedsmart 117, Inc. – Applicant, Mahmoud Hassan Majed – Agent. The Beer & Wine Store License previously held at this location by Lane Petroleum, Inc., issued 03/30/2000, will revert back to the State.

*5n. Chili's Grill & Bar # 1243

New Restaurant License for Chili's Grill & Bar # 1243 at 1951 South Signal Butte Road, Brinker Restaurant Corporation – Applicant, Clare Hollie Able – Agent. This is new construction. No previous liquor license at this location. District # 6.

*5o. Chili's Grill & Bar # 1282

New Restaurant License for Chili's Grill & Bar # 1282 at 1025 North Dobson Road, Brinker Restaurant Corporation – Applicant, Clare Hollie Able – Agent. This is new construction. No previous liquor license at this location. District # 6.

*5p. Jeepers Jungle Jim's Playland

New Restaurant License for Jeepers Jungle Jim's Playland at 2726 South Alma School Road, Omni Group Productions, LLC – Applicant, Lisa Marie Mason, Agent. This is an existing business. No previous liquor license at this location. District # 3.

*5q. Sunnyside Up

New Restaurant License for Sunnyside Up at 9937 East Baseline Road, Sunnyside Up LLC – Applicant, Terri Lynn Eleneski – Agent. This is an existing business. No previous liquor license at this location.

6. Take action on the following contracts:

*6a. Two Vehicles as requested by the Development Services Department, Transportation Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$39,575.56, including applicable sales tax.

*6b. One-year renewal of the Supply Contract for Thermoplastic Striping Material for Warehouse Inventory as requested by the Development Services Department, Transportation Division.

The Purchasing Division recommends authorizing a one-year renewal through the ADOT contract with Susannah Dobbs Company, dba Dobco, at \$187,561.46, including contingencies and applicable use tax.

*6c. Coated Steel Gas Pipe as requested by the Utilities Department, Gas Division.

The Purchasing Division recommends award to the lowest responsive bidder, J.D. Fields & Co., for \$454,433.60.

6d. 2005/2006 Street Improvements, 64th Street, Power Road, Sossaman Road, Lindsay Road, City of Mesa Project No. 04-841-006.

This project will rehabilitate roadway segments that require some measure of pavement maintenance. Improvements include 70,000 square yards of asphalt pavement reconstruction and 14,000 square yards of asphalt pavement overlay. Street segments included in this project are 64th Street from McLellan Road to Evergreen Street; Power Road from Adobe Road to University Drive; Sossaman Road from Inverness Avenue to Baseline Road; and Lindsay Road from Main Street to Broadway Road. The work will

also include the construction of sidewalk ramps along the improved street and other minor street improvements.

Recommend award to the low bidder, Nesbitt Contracting Company, in the amount of \$2,506,149.00 plus an additional \$250,614.90 (10% allowance for change orders) for a total award amount of \$2,756,763.90. Funding is available from FY 05/06 Highway User Revenue Fund (HURF) bonds budgeted in the Transportation Capital Program.

Mayor Hawker and Councilmember Whalen declared potential conflicts of interest and said they would refrain from discussion/consideration in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Somers-Walters
ABSTAIN - Hawker-Whalen

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

With action on this agenda item being completed, Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- *6e. Southern Avenue Interceptor Rehabilitation, City of Mesa Project No. 01-656-004.

This project repaired a section of partially collapsed wastewater line on Southern Avenue west of Stapley Drive. The repairs consisted of the installation of a structural liner inside the existing pipe. This liner is considered a permanent repair. The Construction Manager at Risk (CM@Risk) completed these emergency repairs on May 9, 2006.

Recommend Council ratification of the contract with the CM@Risk, Sundt Corporation, and the final contract amount of \$586,124.80. Funding is available from existing wastewater bond authorization.

- *6f. Nine new workstations and four new offices for the Greenfield Water Reclamation Plant as requested by the Utilities Department.

The Utilities Department recommends authorizing purchase from the State of Arizona contract with Goodman's at \$35,233.11, including design, installation, delivery and applicable sales tax.

The City will be reimbursed approximately 40% from the Town of Gilbert and approximately 18% from the Town of Queen Creek.

- *6g. Furniture Installation for Phase IV of the Municipal Building Remodel as requested by the Development Services Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Goodman's at \$47,347.72, including design, installation, delivery and applicable sales tax. Funding in the form of building permit fees are budgeted for this purchase.

7. Introduction of the following ordinances and setting August 14, 2006 as the date of the public hearing on these ordinances:

- *7a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

Safety Devices for Neighborhood Block Parties; 10-3-13 (L)

The Development Services Manager shall furnish and erect necessary barricades and traffic control signs for block parties on public streets, pursuant to section 10-3-18 (K) (DELETE Section 'L' from City Code, Citywide, all Council Districts).

Authority to Close Streets for Block Parties; 10-3-13 (K)

The Development Services Manager or his designee is hereby authorized to grant temporary street closures for block parties (MODIFY Section 'K', Citywide, all Council Districts).

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

On the south side of Main Street from a point 162 feet west of South Lazona Drive to a point 78 feet east of South Lazona Drive (Main Street east of Stapley Drive, Council District 4).

- *7b. Amending Section 11-18-7 and 11-18-8 of the Zoning Ordinance pertaining to site plan review, including review and approval by the Planning and Zoning Board and the Planning Hearing Officer, implementation, appeals, and protest requirements.

P & Z Recommendation: Approval. (Vote: 6-0 with Boardmember Adams absent.)

- *7c. Amending Mesa City Code Building Regulations Title 4, Chapter 1, 2, 3 and 5 to make minor modifications to the requirements for building permits and to correct/clarify several building and related code requirements as recommended by the General Development Committee.

8. Take action on the following resolutions:

- *8a. Approving and authorizing the City Manager to execute an Intergovernmental Agreement (IGA) between the State of Arizona Department of Transportation (ADOT) and the City of Mesa for the design and construction of freeway upgrades and fiber optics along the Red Mountain Freeway (202L) from University Drive to Southern Avenue. Mesa's estimated share of the improvement cost is \$2,103,939.36 – Resolution No. 8766.

*8b. Approving and authorizing the City Manager to execute all documents necessary to request a change to the FAA's designation from aeronautical to non-aeronautical purposes of the Falcon Field Airport Citrus Groves Property – Resolution No. 8767.

*8c. Extinguishing a portion of a Public Utilities Easement at 4401 East McKellips Road – Resolution No. 8768.

This easement is being extinguished to allow the development of a new bank and office building.

*8d. Extinguishing a Public Utilities Easement at the Las Maderas Subdivision – Resolution No. 8769.

This easement is no longer required as there are no utilities in the easement area and will allow for the construction of enclosed RV garages.

*8e. Extinguishing two Drainage Easements located at 2826 East Baseline Road – Resolution No. 8770.

The extinguishments are no longer required, as new easements have been dedicated for a retail/commercial development.

*8f. Approving and authorizing the City Manager to execute Amendment No. 1 to the Amended and Restated Gila River Indian Community Water Rights Settlement Agreement – Resolution No. 8771.

*8g. Approving and authorizing the City Manager to execute an Intergovernmental Agreement among the cities of Chandler, Glendale, Mesa and Scottsdale and the contract for legal services with the Law Firm of Engleman Berger, P.C. relating to joint legal representation in the Gila River General Stream Adjudication – Resolution No. 8772.

*8h. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between Arizona Game and Fish Commission and the City of Mesa regarding the stocking of fish at Mesa's urban fishing lakes – Resolution No. 8773.

8i. Approving and authorizing the City Manager to execute a Preconstruction Engineering and Design Agreement among the City of Mesa, U.S. Army Corps of Engineers, and the Salt River Pima-Maricopa Indian Community for the Va Shly'ay Akimel Salt River Ecosystem Restoration project – Resolution No. 8776.

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

Brian Campbell, 4309 North Desert's Gate, expressed support for the Va Shly'ay Akimel Salt River Ecosystem Restoration project and stated that it is an excellent example of local, regional and national entities joining forces to make the community a better place in which to live. He also acknowledged the efforts and hard work of countless Mesa residents who volunteered their

time and service in the development of the Lehi Historic Trail, which is an integral part of the ecosystem restoration project.

Mayor Hawker recognized the presence of Kayla Eckert and Mike Ternack, representatives of the U.S. Army Corps of Engineers, who have worked on each phase of the ecosystem restoration project since its inception.

Mayor Hawker reported that earlier today, he spoke with Don Stapley, Chairman of the Maricopa County Board of Supervisors, and also received e-mail correspondence from Supervisor Fulton Brock regarding this item. He explained that both individuals expressed a willingness to work with the Flood Control District of Maricopa County to commit \$100,000 toward Mesa's share of the Preconstruction Engineering and Design (PED) Agreement costs for this fiscal year. Mayor Hawker advised that for the last two years, the Flood Control District budgeted \$100,000 for the ecosystem restoration project, but said that because the PED Agreement was not signed prior to the beginning of the agency's fiscal year, the funds were appropriated elsewhere. He reiterated that he received assurances from Mr. Stapley and Mr. Brock that they would endeavor to reinstate the funds in the Flood Control District's budget.

Mayor Hawker further indicated that the City's proposed design cost-sharing amount for FY 2006/07 is \$156,250, but noted that amount would be significantly reduced if the City receives the \$100,000 contribution from the Flood Control District. He said that Mesa's share of the costs for the project are contained in the City's Five-Year Capital Improvement Program and have also been modeled in Mesa's 25-year budget forecast. Mayor Hawker added that due to the City's current financial difficulties, he would continue to pursue alternative funding options to reduce Mesa's financial participation in the project.

Mayor Hawker also spoke regarding the long-term, positive impact that the ecosystem restoration project would have on the entire Phoenix metropolitan area and stated that it is a legacy that will be passed on to future generations. He also expressed appreciation to all of the entities that have participated in the project including the Salt River Pima-Maricopa Indian Community, the U.S. Army Corps of Engineers, Arizona's Congressional delegation and the community volunteers.

It was moved by Mayor Hawker, seconded by Vice Mayor Walters, that Resolution No. 8776 be adopted.

Councilmember Somers commented that although he previously expressed concerns regarding the City's expenditure of funds for the ecosystem restoration project, especially in view of the current reductions throughout the organization (i.e., Senior Dial-A-Ride, School Resource Officer Program), he is willing to support the project this fiscal year. He cautioned, however, that he could not guarantee his support beyond that time. Councilmember Somers added that he is hopeful Mesa will receive the \$100,000 contribution from the Flood Control District and acknowledged Mayor Hawker's efforts in pursuing the matter.

Vice Mayor Walters thanked Mr. Campbell for taking the time to address the Council this evening. She noted that because Mesa has experienced significant budget reductions in the last five years, it has necessitated the City to leverage its dollars on certain projects with other funding sources and also rely on the donations of time and services by community volunteers. She said that the ecosystem restoration project is a fine example of such collaboration. Vice

Mayor Walters also expressed appreciation to the Indian Community, the U.S. Army Corps of Engineers and Arizona's Congressional delegation for their substantial efforts and hard work in this regard. She further questioned whether the volunteer hours contributed to the development of the Lehi Historic Trail by Mesa residents could be considered part of the City's financial contribution with regard to the ecosystem restoration project.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Jones-Somers-Walters-Whalen
ABSTAIN - Rawles

Mayor Hawker declared the motion carried unanimously by those voting and Resolution No. 8776 adopted.

- *8j. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Phoenix and the City of Mesa for receipt of Federal Transit Administration (FTA) grant funds for a Park-and-Ride lot at Red Mountain Freeway and Power Road. The agreement amount of \$869,456 includes a \$695,565 federal share and a \$173,891 local share (Quality of Life funds) – Resolution No. 8774.
- *9. Take action on the adoption of a Notice of Intent to enter into a retail development tax incentive agreement with Robert Crist and Company for the retention, relocation and expansion of Robert Crist R.V. and World Wide R.V. dealerships for the development of a 6-acre office, industrial and retail center.
- *9.1. Take action on an ordinance and resolution modifying wastewater rate schedules and charges – Ordinance No. 4572 and Resolution No. 8775.
- *9.2. Authorize the City Attorney to file an amicus brief in the Arizona Court of Appeals case, *Town of Gilbert v. Maricopa County Board of Supervisors*, 1CA-CV06-0309.
- 10. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (*), a blue card must be given to the City Clerk before Council votes on the consent agenda.
- *10a. **Z06-42 (District 6)** The 1300 to 1500 block of South Sossaman Road (west side). Located south and west of Southern Avenue and Sossaman Road (39.12± ac.). Site Plan Modification. This request will allow for the development of office and warehouse/industrial buildings – Ordinance No. 4573.

Superstition Springs Investors Limited Partnership (Michael DeBell), owner; Terrence R. Wall, T. Wall Properties, applicant. ***(Held a neighborhood meeting, notified property owners, neighbors, registered neighborhoods and homeowners associations.)***

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

- *10b. **Z06-43 (District 5)** The 8700 block of East Range Rider Trail (north side). Located southeast of the southeast corner of Hawes and Thomas Roads (4.73± ac.). Rezone from Maricopa County Rural-35 to City of Mesa R1-35. For the establishment of City of Mesa zoning on recently annexed property. Ruth Irvine, owner; City of Mesa, applicant – Ordinance No. 4574.

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

- *10c. **Z06-46 (District 6)** The 6200 block of South Mountain Road (west side). Located southwest of Williams Field Road and Mountain Road (15± ac.). Rezone from AG to M-1 PAD and Site Plan Review. This request will allow for the development of an industrial subdivision. Cameron Williams, owner; Dorothy Shupe, Dream Catchers Planning & Design LLC, applicant – Ordinance No. 4575. **(Notified property owners, and homeowners associations.)**

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

- *10d. **Z06-47 (District 6)** The 1600 block of South Greenfield Road (east side) extending east to South 48th Street and the 4700 block of East Baseline Road extending north to US 60. Located south of US 60 between Greenfield Road and 48th Street (59.24±ac.). Rezone from AG to M-1-PAD, M-1 to C-2, and M-1 to M-1-PAD. This request will allow for the development of an RV dealership and office/industrial buildings. Robert C. Crist, owner; Stephen C. Earl, applicant – Ordinance No. 4576. **(Held a neighborhood meeting, notified property owners, registered neighborhoods and homeowners associations.)**

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

11. Take action on the following recommendations from the Planning and Zoning Board:

- *11a. **Z06-36 (District 5)** Deleted. (Applicant Withdrew)
- *11b. **Z06-44 (District 5)** Deleted. (Applicant Withdrew)

12. Take action on the following subdivision plats:

- *12a. “LA COSTA”, **(District 3)** 1800 block of West Lindner Avenue (north side) located south and east of Baseline Road and Dobson Road. 196 R-3 DMP condominium units (8.55 ac.) Unit 194, LLC, Matt Burrow, managing member, owner.
- *12b. “FALCON COMMERCE PARK”, **(District 5)** 1600-1800 blocks of North Higley Road (west side) located south and west of Higley Road and McKellips Road. 17 M-1 industrial lots (31.04 ac.) LGE Corporation, Frank Pettit, Vice President, owner.

13. Items from citizens present.

Carl Johnson, 4245 North Morning Dove Circle, expressed a series of concerns regarding illegal immigration. He commented that although it is a Federal issue, from his perspective, enforcement measures have not been implemented at the local level.

Peter J. O'Malley, 325 North Higley Road, a member of the Minuteman Civil Defense Corps, concurred with the comments of the previous speaker. He also questioned why Mesa is a "sanctuary for illegal aliens" and urged the Council to address this issue at a municipal level.

Mayor Hawker requested that staff update the Council at a future Study Session regarding day labor centers and the manner in which other cities in the Valley are addressing the matter.

14. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:30 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 12th day of July 2006. 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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