



COUNCIL MINUTES

November 1, 2004

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on November 1, 2004 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Janie Thom
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

OFFICERS PRESENT

Debra Dollar
Barbara Jones
Debbie Spinner

Invocation by Pastor Chris Carpenter, Christ the King Catholic Church.

Pledge of Allegiance was led by Wilford Merrill.

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.

Recognition of the 2004 class of the Mesa Leadership Training and Development Program.

Mesa Hawker acknowledged the members of the Mesa Leadership Training and Development Class of 2004 who were present in the audience. He commented on the 12-month program, which is sponsored by the Mesa Chamber of Commerce, and urged those interested in the program to contact the Chamber for more information.

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.

Carried unanimously.

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

Minutes from the September 16 and October 18 and 21, 2004 Council meetings.

3. Conduct a public hearing and consider an amendment to the land use map for the following Minor General Plan Amendment and possible adoption of the corresponding resolution:

- a. **GPMInor04-07 (District 1)** The 1000 - 1100 blocks of North Dobson Road (west side) and the 800 - 1100 blocks of North Dobson Road (east side) and the 1700 - 1900 blocks of West 8th Street (north side). Located at the southeast and southwest corner of Dobson Road and Loop 202 Freeway. Minor General Plan Amendment request to the land use map of the Mesa 2025 General Plan from Mixed Use Employment to Regional Commercial. (202 acres +/-). Bixby Arizona LLC (Robert Hurley, David Kibbee and Margaret Hurley Smith), owner; KRS Acquisitions Corp. (Mike Withey), applicant – Resolution No. 8355.

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.

Vice Mayor Walters announced that this is the time and place for a public hearing regarding the 1000 - 1100 blocks of North Dobson Road (west side) and the 800 - 1100 blocks of North Dobson Road (east side) and the 1700 - 1900 blocks of West 8th Street (north side).

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

Councilmember Rawles stated that in the interest of full disclosure and after consulting with City Attorney Debbie Spinner, he wished to advise everyone that he is in the process of negotiating a new position wherein he would become General Manager and General Counsel of the Johnson Stewart Company, which is located in Mesa. He explained that Ms. Spinner determined that his role as a potential employee of the company would not cause him to have a conflict in this case, or with the associated Planning and Zoning cases on tonight's agenda.

In response to a question from Councilmember Rawles, Ms. Spinner clarified that State law indicates that he would only have a conflict of interest if he had a financial or ownership interest in the item being presented and noted that the interest cannot be speculative or abstract. She added that because Councilmember Rawles is just in the stages of negotiating with the employer and has not discussed the above-referenced matter with them, it would be unnecessary for him to declare a conflict of interest at this time.

It was moved by Councilmember Thom, seconded by Councilmember Whalen, that GPMInor04-07 be approved and Resolution No. 8355 be adopted.

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 and Resolution No. 8355 adopted.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

4. Consider the following liquor license applications:

a. CLOYD H. MOODY, INDIVIDUAL

Person Transfer Bar License for Main Street Sports Grill, 260 W. Main Street. This is an existing business. This is a Person Transfer from Mathew Kelley Shreeve, Agent, Shreeve Enterprise, Inc., 260 W. Main Street. This license will transfer to the applicant. District #4.

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

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that the above-referenced liquor license application be approved.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

b. TIMOTHY RAYMOND O'SULLIVAN, AGENT

Person and Location Transfer Bar License for R.T. O'Sullivan's, 6646 E. Superstition Springs Blvd. This is an existing building. This is a person and location transfer from Everett Thomas Lee, Agent, Arizona Golf Outfitters, LLC at 18439 S. Arizona Avenue, Chandler. This license will transfer to the applicant. District #6.

Raymond O' Sullivan, the owner of R.T. O'Sullivan's, addressed the Council and stated that the reason he is requesting a Series 6 bar license as opposed to a Series 12 restaurant liquor license is to enable him to expand his business to include catering services.

Mayor Hawker noted that the City of Mesa currently has a policy of not allowing the establishment of bars in C-2 zoning, which is where Mr. O'Sullivan's restaurant is located. He questioned how the policy would be affected if the Council forwarded a recommendation of approval to the State Liquor License Board.

City Attorney Debbie Spinner provided a brief overview of this agenda item for the benefit of the Council. She stated that the policy referenced by Mayor Hawker is contained in the Zoning Ordinance and indicates that a bar is only permitted in a C-3 zone; that what the Council is being asked to do tonight is to make a recommendation to the State Liquor License Board to approve or disapprove the liquor application; that approval of the application would not be in direct conflict with the City's Zoning Ordinance, but may create other issues in terms of enforcement; that once the Liquor License Board grants the license, it would be difficult for the City to determine whether the restaurant owner was operating his business as a restaurant or a bar; that she is unsure of the ramifications of the application due to the fact that a request such as this has never occurred before in Mesa; and that if the liquor license is granted, the Council should assume that the property could be transferred and staff would do its best to enforce it per the intent of the Council, but could not guarantee it would be successful in that regard.

Discussion ensued relative to a possible scenario if the applicant wished to transfer his bar license to another owner in the future and the potential difficulty the Council would face in denying the transfer because of the incompatibility of the C-2 zoning when the restaurant had already been in existence with that zoning for five years; the differences between the Series 6 and Series 12 licenses; that it may be appropriate for the matter to be continued to allow the City Attorney's Office to seek the advice of an attorney who represents the State Liquor License Board in an effort to resolve the matter to the satisfaction of the Council and Mr. O'Sullivan; and that the Council would be required to make a recommendation to the Board by November 15, 2004.

Councilmember Rawles suggested that as part of the Council's recommendation to the State Liquor License Board relative to Mr. O'Sullivan's case, that perhaps staff could include language with the application to reflect the following: That given the fact that the proposed business is intended to be operated as a restaurant and a catering business, that such factors would lead the Council to the conclusion that the business is a convenience and necessity for the public. He commented that in the future if Mr. O'Sullivan wanted to sell his business and the new owner wished to operate a bar as opposed to a restaurant and catering business, the Council could disapprove the transfer of the bar license and indicate that it no longer found the same convenience and necessity.

Further discussion ensued among the Councilmembers regarding the pros and cons of postponing Council action on this matter to a future meeting; the fact that the Council does not want to set a precedent with regard to allowing the establishment of bars in C-2 zoning; that the Council is anxious to work with Mr. O'Sullivan, a long-time Mesa restaurant owner, to resolve the issue; that Mr. O'Sullivan could apply for C-3 zoning, which would allow him to operate a bar on the premises; and that on November 10, 2004, the Council could conduct a Special Council Meeting to discuss and consider the application in order to comply with the State Liquor License Board's November 15, 2004 timeline.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that action on this item be continued to the November 10, 2004 Special Council Meeting.

Carried unanimously.

*c. HIRAM NOE RASCON, AGENT

New Beer & Wine Store License for Carniceria El Rodeo #2,1316 W. University Drive. This is an existing business. No previous liquor license at this location. District #1.

*d. PHILIP J. GREEN, AGENT

New Restaurant License for Longbow Golf Club, 5601 E. Longbow Parkway. This is an existing building. Current Beer & Wine Bar license exists at this location to accommodate guests on the golf course. District #5.

5. Consider the following contracts:

- *a. Three-year supply contract for 15kV aluminum electrical cable for warehouse inventory to be used by the Electric Utility Division.

The Purchasing Division recommends accepting the low bid meeting specification by Wesco Dist. Inc. for items 4, 5 & 6 at \$161,823.66, including applicable tax and based on estimated annual requirements.

- *b. Ten-month contract for water treatment chemicals (for swimming pools and Utilities) as requested by the Materials and Supplies Division. These chemicals are stored in the City warehouse. The Purchasing Division recommends authorizing purchase from a cooperative bid with the City of Tempe and other area cities, as follows:

Item 1 (caustic soda) from Thatcher Chemical at \$16,850.22; and

Items 2 and 3 (chlorine) from DPC Enterprises at \$88,915.90. The combined award is then \$105,766.12 based on estimated purchases during the remaining ten months of the contract.

- *c. One replacement front-loading refuse truck for the Solid Waste Division, to be used for collection of commercial accounts.

The Purchasing Division recommends exercising an additional purchase option from RFB #2004114 with the original low bidder meeting specification, Cunningham Commercial Vehicles, at \$176,720.40 including desired options, extended warranties and applicable sales tax.

- *d. **Item Deleted.**

- *e. Five replacement Livescan Fingerprinting Systems, including associated hardware and software as requested by the Police Department.

The Purchasing Division recommends authorizing purchase from State contract with Sagem Morpho, Inc. at \$168,754.90 including applicable sales tax.

- *f. One new hazardous duty law enforcement robot for use by the Bomb Squad as requested by the Police Department.

The Purchasing Division recommends accepting the only bid by Remotec, Inc. at \$158,164.51 including applicable use tax. (This purchase is 100% funded by a grant from the Department of Homeland Security). (Sole Source)

- *g. Additional funding for the supply contract for street light lamps, luminaries and related components to be used by Transportation. These items are stored in the City warehouse.

The Council is requested to authorize \$50,523.90 in additional funding to the portion of the contract held by WESCO Distribution (Groups C, D, & I).

- *h. 2004/2005 Crack Sealing Project. City of Mesa Project No. 04-902-001.

This project will crack seal over 2,350,000 yards of street pavement Citywide.

Recommend award to low bidder, Young, Swenson & Cross, in the amount of \$414,709.93 plus an additional \$41,470.00 (10% allowance for change orders) for a total award of \$456,179.93.

- i. Desert Wells Zone 30-Inch Water Line, Phase II, City of Mesa Project No. 01-566-002 and Sossaman Road 12-Inch Sewer, City of Mesa Project 01-914-001.

This project will install a 30-Inch water line and a 12-Inch sewer line for the purposes of enhancing the City's ability to satisfy water demands and pressure requirements within the southeast portion of the City.

Recommend award to low bidder, Achen-Gardner Engineering, LLC, in the amount of \$3,339,798.50 plus an additional \$333,979.00 (10% allowance for change orders) for a total award of \$3,673,777.50.

Mayor Hawker declared potential conflicts of interest on agenda items 5i, 5j and 5l and said he would refrain from discussion/participation in these agenda items. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

It was moved by Councilmember Thom, seconded by Councilmember Whalen, that the recommendations 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.

- j. Southeast Mesa Relief Sewer, Phase I, Monterey Park to Baseline Road. City of Mesa Project No. 02-392-001.

This project will increase sanitary sewer capacity in the southeast area of the City to accommodate development needs. Improvements to be constructed by this project include over 8,300 feet of 30-inch and 24-inch sewer line.

Recommend award to low bidder, SJL Construction of Arizona, LLC, in the amount of \$1,550,923.97 plus an additional \$155,092.00 (10% allowance for change orders) for a total award of \$1,706,015.97.

It was moved by Councilmember Griswold, seconded by Councilmember Rawles, that the recommendations 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.

- *k. Dobson Police Substation Restroom Remodel, 2505 South Dobson Road. City of Mesa Project No. 03-920-001.

This project will repair the metal wall studs in the showers and re-tile the restroom.

Recommend award to low bidder, Gila Southwest Builders, LLC, in the amount of \$38,814.00 plus an additional \$3,881.00 (10% allowance for change orders) for a total award of \$42,695.00.

- l. Greenfield Water Reclamation Plant (GWRP) Buffer Area Pipelines, City of Mesa Project No. 01-923-002.

This project will install the pipelines and control facilities located within the plant buffer area that will convey Mesa's portion of the reclaimed water from the Greenfield Water Reclamation Plant to the Gila River Indian Community, as well as reclaimed water to existing and proposed off-site Gilbert and Queen Creek distribution systems.

Recommend award to low bidder, Highland Engineering, in the amount of \$3,676,860.00 plus an additional \$367,686.00 (10% allowance for change orders) for a total award of \$4,044,546.00.

It was moved by Councilmember Thom, seconded by Councilmember Jones, that the recommendations 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.

5.1. Introduction of the following ordinances and setting November 15, 2004 as the date of public hearing on these ordinances:

- *a. Amending Title 5, Chapter 12 of the Mesa City Code relating to massage therapists and establishments.
- *b. Repealing Title 5, Chapter 4 of the Mesa City Code relating to the sale of jewelry at public auction.
- *c. Repealing Title 5, Chapter 5 of the Mesa City Code relating to going-out-of-business sales.

6. Consider the following resolutions:

- *a. Authorizing the City Manager to execute a Highway Safety Contract between the City of Mesa and the Governor's Office of Highway Safety to reduce injuries and fatalities in the City of Mesa – Resolution No. 8352.
- *b. **Item Deleted.**
- *c. Authorizing the sale of City-owned property located at 18501, 18515, and 18525 E. Ray Road to developer, Larry Gunning – Resolution No. 8353.

This is excess City-owned property left over from a road-widening project in 1996. The developer is assembling properties for a commercial retail center at the southeast corner of Ray and Power Roads.

- *d. Modifying fees and charges for the Arts and Cultural Division and declaring this resolution and said fees and charges to be a public record – Resolution No. 8354.
- *e. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the Regional Public Transportation Authority and the City of Mesa for fixed-route transit services. **(CONTINUED TO THE NOVEMBER 15, 2004 REGULAR COUNCIL MEETING.)**
- *f. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the Regional Public Transportation Authority and the City of Mesa for East Valley Dial-A-Ride Service. **(CONTINUED TO THE NOVEMBER 15, 2004 REGULAR COUNCIL MEETING.)**

7. Consider the following ordinances:

- *a. Amending various sections of the Mesa City Code regarding the following traffic modifications – Ordinance No. 4293.

Left Turns Prohibited During Posted Hours From Driveways on Certain Streets: 10-3-15 (C).

The west side of Barkley directly across from Hale Street between the hours of 8:00 a.m. and 3:30 p.m. on school days (south of McLellan Road and east of Stapley Drive) Council District 1.

- *b. Pertaining to the zoning ordinance and subdivision regulations of the Mesa City Code; amending Sections 11-18-8, 11-18-9, 11-18-10 regarding adjustments to the required fees for Planning services; and amending Sections 9-6-2(C), 9-6-2(D), 9-6-2(E), 9-6-2(F) regarding adjustments to the required fees for subdivision plats and land splits, as recommended by the General Development Committee – Ordinance No. 4294.
- *c. **A04-10** Annexation located on the southwest corner of Ray Road and South Mountain Road. (160.71±acres). Initiated by the property owners (Peart L T TR and General Motors Corp.) – Ordinance No. 4295.

8. Consider an ordinance and resolution modifying the rate schedule for industrial wastewater utility service for customers outside the City limits – Ordinance No. 4306, Resolution No. 8356. (CONTINUED FROM THE OCTOBER 4, 2004 REGULAR COUNCIL MEETING.)

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Ordinance No. 4306 and Resolution No. 8356 be adopted.

Councilmember Rawles, Chairman of the Finance Committee, reported that on October 18, 2004, this item was presented to the Finance Committee for further discussion and consideration. He explained that subsequent to Council approval of utility rate adjustments in June of this year, staff discovered errors on the rate schedule for industrial wastewater utility service for customers outside the City limits. Councilmember Rawles stated that the errors impacted a single customer and noted the retroactive application does not appear problematic. He added that it was the recommendation of the Committee that the existing resolution and ordinance be resubmitted to the Council for approval. He noted, however, that he would be opposed to the motion because of the utility rate increase.

Councilmember Thom expressed opposition to the motion and commented that in June when the Council voted to increase utility rates, the rates for this business were reduced. She stated that the City has now devised a special rate for this entity, which is higher than rates imposed on companies within the City, and added that in her opinion, this practice is punitive and discriminatory.

Vice Mayor Walters commented that the particular company in question is not located within the City, but is an outstanding business that is part of the community. She advised that what occurred in this case was when the rate schedules changed, the City inadvertently charged the company a decreased rate as opposed to an increased rate and tonight's action is merely to ensure that the rates charged for wastewater utility services are consistent with the approved budget and Council direction. She added that it was also the opinion of the Finance Committee that the City did not need to give the company additional notice of the rate modification because it has been aware of the situation for several months.

Mayor Hawker expressed support for the motion and commented that the City made a mistake, which is now being rectified by the rate increase.

Councilmember Rawles clarified his previous comment by noting that if the Council were returning this particular rate to what it was at the beginning of the year, he would be supportive of the motion because the City had a right to correct its mistake. He noted, however, that he would continue to be consistent with his previous voting record of opposing all utility rate increases.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4306 and Resolution No. 8356 adopted.

*8.1 Consider acceptance of the City of Mesa Bus Stop Master Plan and approve the development of an additional \$600,000 in passenger shelter, bench and bus pullout projects. (CONTINUED TO THE NOVEMBER 15, 2004 REGULAR COUNCIL MEETING.)

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

- a. **Z04-70 (District 4)** 1860 S. Stapley. Located north and west of Stapley Drive and Baseline Road (3.35 acres). Rezone from M-1 to C-2 and Site Plan Review. This request is to allow for two retail pads. Desco Southwest, Bruce Gillespie, owner; Archicon, Jere Planck, applicant – Ordinance No. 4307.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. All existing Billboards on site shall be removed when construction begins (ARS 9-462.02c)

Vice Mayor Walters commented that she is not opposed to the proposed project, but requested information regarding the cross access agreement which was featured predominantly during the Planning and Zoning Board's discussion of this matter.

W. Ralph Pew, 10 West Main Street, an attorney representing Full Circle Auto Wash, the property owners immediately south of the zoning case, reported that the issue that came before the Planning and Zoning Board was one of access to the property to the south and onto Baseline Road. He explained that in 1998 when the car wash and gas station on the immediate corner of Baseline Road and Stapley Drive were built, a Special Use Permit was issued to the owners of

those entities. Mr. Pew stated that one of the conditions of the Special Use Permit was that the property owner grant an access easement between what is now the Bank of America and the car wash that would extend north and provide access to the property under consideration tonight.

Mr. Pew advised that his clients are not opposed to the commercial development or the office project and said that he is merely requesting additional time in which to negotiate and finalize the language relative to the easement. Mr. Pew advised that the proposed Site Plan under consideration indicates an access way on the southern boundary of the commercial pad and that access point is at the property boundary with his client's land. He emphasized that in order to have that access point and to show it on the Site Plan, it is necessary that the two property owners enter into a reciprocal easement to allow this land to be used for such purposes. He commented that the parties involved in the document negotiations include the car wash, Bank of America and the applicant, and although there has been substantial progress in the drafting of the document, it is not finalized and discussions are still ongoing regarding under what conditions the easement could be terminated. Mr. Pew stressed that the Planning and Zoning Board unanimously recommended approval of the case with the cross access reciprocal easement in place. He also noted that if the Council wishes to proceed forward with the case this evening, he would request, at a minimum, that staff be directed and applicant advised that no building permits will be issued until such time as the cross access easement has been resolved. He added, however, that he would prefer that the case be postponed to the November 15, 2004 Regular Council Meeting to enable the parties to finalize the easement.

Jere Planck, 4041 North Central Avenue, Phoenix, an architect representing Desco Southwest, reported that the main point of contention concerning the cross access easement is the fact that Mr. Pew's client wants permanent access. Mr. Planck stated that if the property were ever redeveloped, his client would like the opportunity to renegotiate the easement. He explained that if his client comes back in front of the Council with any design changes, the Council would have the ability to change those stipulations and access points. He requested that the Council approve the zoning case tonight and that Desco not be "held hostage" by Mr. Pew's client. He added that he was confident that a cross access easement would ultimately be finalized.

Planning Director John Wesley indicated that staff's recommendation to the Planning and Zoning Board was that the case be approved without the additional access to Baseline Road, which would require the filing of the cross access easement. He stated that although the site has several points of access and functions adequately without the said easement, there would be a benefit and improved access if there was joint access as recommended by the Planning and Zoning Board. He acknowledged the ongoing conflict between the property owner and the applicant and stated that staff would support either position in this case.

Discussion ensued relative to the issuance in 1998 of a Special Use Permit by the Board of Adjustment for the operation of the car wash and gas station; that on the north property line, which was the common property between the two sites, the car wash owner showed City staff a landscape setback that was less than the Code required; that there is a provision in the ordinance that indicates if joint access is provided between two properties, the landscape requirement may be waived and the car owner elected to do so, which is the reason a stipulation was in place; that the stipulation was also in place because at the time the two properties were actually owned by the same person who agreed to place a cross access easement across his own property.

In response to a question from Mayor Hawker, Mr. Wesley clarified that in 1998, the Board of Adjustment met because the Special Use Permit was on the property to the south and not this particular piece of property. He said that there are now different owners. Mr. Wesley added that at this point, staff believes that a zoning stipulation on this site plan case could not be applicable to an adjoining piece of property.

Ms. Spinner added that if the Council wanted to add an additional condition to this ordinance, it would have to be reintroduced.

Mr. Pew acknowledged that when the subject property that is being zoned tonight seeks a future site plan modification or a change in its configuration, that property owner must come before the Council and obtain site plan approval. He stressed that his client is not asking for a permanent easement, but rather a reciprocal easement, which was recommended by the Planning and Zoning Board. He added that if the Council approves this case tonight, there would be an open space on their site plan that would allow for traffic, vehicular and pedestrian connection, but the parties have yet to reach a final agreement as to how that would be accomplished and that it would be reciprocal.

In answer to the Mayor's question regarding what occurred in 1998, Mr. Pew stated that the Special Use Permit was required and as part of that permit, his client did record an easement that is in place on this property, which shows this entire access way out to Baseline. He explained that monetary obligations existed that his client has agreed to remove and the new document to accomplish this has become complicated.

Mr. Planck reported that an obvious disagreement exists between the parties and that the agreement for access is only on two parcels and does not include the 17-acre parcel. He stated that two parcels are actually being split off, and that is the case before the Council. Mr. Planck stated that the stipulation does not pertain to his client and he added that no crossover access agreement has ever been recorded on the property. He advised that his client has agreed to the crossover access, but the agreement proposed was not reciprocal. Mr. Planck noted that Mr. Pew sent a letter to the Council last Thursday regarding a permanent access agreement, but neither he nor his client received a copy. He expressed the opinion that Mr. Pew and his client are attempting to force his client into a permanent agreement in order to delay his client's projects from moving forward. Mr. Planck requested that the Council consider the item as presented and he stated that the parties involved would then attempt to reach an agreement.

Councilmember Rawles stated that in the five conditions that he sees listed for this zoning case, there is no reference to the cross access easement, but he assumes the language is contained in a site plan that he has not seen. He questioned whether Council approval of this case tonight would include the cross access easement.

Mr. Wesley responded that the recommendation of the Planning and Zoning Board was that a reciprocal easement be obtained, but not as a condition of approval because the easement is on a separate piece of property. He stated that staff would continue to watch for and make it a part of the record before Desco could actually occupy the property.

Councilmember Rawles stated that if he understands Mr. Planck's position, he is comfortable with that and if an agreement cannot be reached with Mr. Pew, Mr. Planck would come back to the Council to request a modification.

Mr. Planck stated that the opinion he received from staff was that it could be administratively removed because there was no stipulation on his client's property.

Councilmember Rawles, in an effort to clarify the issues in the case, cited that the applicant is anxious for the zoning case to move forward today, which includes no barriers at the south end of the property that leads into the access to these two parcels and if an agreement cannot be reached, the applicant could request that the easement be removed administratively by the Council.

It was moved by Councilmember Rawles that Zoning Case Z04-70 be approved and Ordinance No. 4307 be adopted.

Vice Mayor Walters expressed support for the motion, but commented that the easement would not be removed by the Council, but rather approved administratively by staff. She indicated that she would not like to delay moving ahead with the site plan and noted that rather than giving direction to staff, she expects that there will be cross access at this site because it is heavily used and that it would make a difference in terms of people's safety moving in and out of the area off of Baseline Road instead of having to go on Stapley Drive. She said she anticipates that an agreement will be reached and that whatever feelings there are from the past will be set aside and they move forward because it is in the best interest of Mesa's residents.

Councilmember Griswold seconded the motion.

Councilmember Griswold concurred that it is important for the project to move forward and to bring employment opportunities to the area.

Carried unanimously.

- *b. **Z04-71 (District 6)** The 10100 to 10200 block of East Southern Avenue (north side) and the 1100 block of South Crismon Road (east side). Located north and east of Southern Avenue and Crismon (19.33 acres). Rezone from R-3 to R-3 PAD and Site Plan Modification. This request is for a condominium complex. Glen Walling, Coyote Landing Apartments, LLP, owner; Denise Burton, Broadbent and Associates, Inc., applicant – Ordinance No. 4296.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage), except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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.
5. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.

6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
7. Administrative review and approval of garage elevations through City of Mesa Design Review staff.

*c. **Z04-72 (District 6)** 6060 E. Baseline Road. Located north and east of Baseline Road and Recker Road (6.5 acres). Rezone from AG and M-1 to M-1 PAD. This request is to allow for an owner occupied industrial park. Malcom and Loretta Pace, owner; David Udall, applicant – Ordinance No. 4297.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 6-0-1 (Saemisch abstaining due to conflict of interest).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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.
5. Compliance with all requirements of the Design Review Board.
6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*d. **Z04-73 (District 3)** The 200 block of West Broadway Road (north side) and the 400 block of South Dobson Road (west side). Located at the northwest corner of Broadway Road and Dobson Road (78.25 acres). Rezone from M-1 to M-1 PAD and Site Plan Review. This request is to allow an owner occupied industrial/office park. David Krumwiede, Scott Hesse, Broadway 101 Venture, LLC, owner; Korey Wilkes, Butler Design Group, applicant – Ordinance No. 4298.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 7-0)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Future site plan review through the Planning and Zoning Board and City Council and Design Review Board is required for the area shown as Future Development.
5. Compliance with all requirements of the Design Review Board.
6. Compliance with all requirements of the Subdivision Technical Review Committee.

7. If any archeological resources are discovered within this site, they must be identified, with findings reported to the State Historic Preservation Office and the City of Mesa's Historic Preservation Office.
8. Recordation of cross-access easement to allow through access to and from Dobson Road across "Future Development Area."

- *e. **Z04-74 (District 5)** 5750 E. Main Street. Located on Main Street (north side) and east of Higley Road (13.6 acres). Rezone from C-2 to C-2 BIZ and Site Plan Review. This request is to allow for a five-story Holiday Inn Hotel and ancillary uses. Shane Kuber, owner; Gerald Kesler (Gerald Kesler, Inc., Architects), applicant – Ordinance No. 4299.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.

- *f. **Z04-75 (District 1)** 605 E. McKellips Road. Located south and east of McKellips Road and Mesa Drive (1.32 acres). Rezone from R1-43 to C-2 PAD and Site Plan Review. This request is to allow for the development of three office buildings. David E. Young, owner; Jonathon Johns, High Desert Engineering, Inc., applicant – Ordinance No. 4300.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted, except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
5. Provide covered parking at one space for each office or suite for buildings designated for office use.
6. Review and approval of a Development Incentive Permit by the Board of Adjustment for setback modifications.

- *g. **Z04-76 (District 4)** The 200 to 250 block of West Southern Avenue and the 1400 to 1450 block of South Country Club Drive. Located south and east of Southern Avenue and Country Club Drive (37.55 acres). Rezone from R-2 PAD, R-4 and M-1 to R-3 PAD and Site Plan Review. This request is to allow a condominium development. American Land Lease (Rod Morris), owner; Ralph Pew, applicant – Ordinance No. 4301.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, elevations, and preliminary plat submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all the elevations and materials presented for the housing units (Buildings 1A & B, 2A & B, 3A & B), entry monument gates, entry monument sign, and community clubhouse.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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. All street improvements and street frontage landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. Full compliance with all current Code requirements, except those modified through the Planned Area Development (PAD) overlay, which are shown on the site plans.
8. Noise attenuation measures to be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db and construction of a noise-attenuated wall along the east property line.
9. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
11. Compliance with the Residential Development Guidelines.

- *h. **Z04-77 (District 6)** The 4300 block of East Southern Avenue (south side) and the 1300 block of South Greenfield Road (west side). Located south of Southern Avenue and west of Greenfield Road (24.1 acres ±). Rezone from AG to R-3 PAD and Site Plan Review. This request is to allow for a multi-residential development. DR Horton, owner; Sean Lake, Pew & Lake P.L.C., applicant – Ordinance No. 4302.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted except as noted below.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Compliance with the Residential Development Guidelines.
6. 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.
7. All street improvements and landscaping to be installed in the first phase of construction.

8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
- i. **Z04-79 (District 6)** The 1500 block of South Sossaman Road (west side). Located north of US Highway 60 and west of South Sossaman Road (36± acres). Requesting a Council Use Permit to allow the development of a Freeway Landmark Monument sign in conjunction with the construction of a group automobile sales center. Superstition Springs Investors, LP, owner; Biskind, Hunt and Taylor, PLC – Karrin Kunasek Taylor, applicant – Ordinance No. 4308.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 6-0 (Boardmember Carpenter excused).

OPTION A:

1. Compliance with the basic location, orientation, materials, colors and design of Option 2, except as modified by the conditions as noted below.
2. The overall sign area shall be no more than nine hundred thirty (930) square feet, based on the definition of "sign area" found in the Mesa City Code.
3. Revisions to the basic design of Option 2 shall include elements to achieve a visual balance of the upper and lower portions of the sign; to be reviewed and approved by the Design Review staff prior to submittal of an application for a sign permit to the Building Safety Division.
4. Compliance with all requirements of the Federal Aviation Administration regarding the use of visibility warning lights, if applicable.
5. The frequency of text message changes for the electronic message panel shall be limited to no more than one every fifteen (15) seconds.
6. No permit for the construction of a freeway landmark monument shall be issued prior to the issuance of a building permit for an automotive dealership whose sales include new cars.
7. The Council Use Permit authorizing the Freeway Landmark Monument shall expire if, following installation of the Monument, no parcels within the Property are utilized for vehicle sales for a continuous period of twenty-four (24) months. Upon such expiration, all rights to use such Freeway Landmark Monument shall automatically terminate and the Freeway Landmark Monument shall be removed by the owner of the Property within six (6) months.
8. The right to use the Freeway Landmark Monument shall be limited to parcels within the Property that have vehicle sales as their primary use. This right may not be assigned or otherwise transferred.
9. The Freeway Landmark Monument shall be located a minimum distance of no less than four hundred feet (400') from the eastern Property boundary.
10. The Freeway Landmark Monument shall not be used as an off-site sign or billboard as defined by the Mesa City Code.

OPTION C:

1. Compliance with the basic location, orientation, materials, colors and design of Option 2, except as modified by the conditions as noted below.

2. The overall sign area shall be no more than nine hundred thirty (930) square feet, based on the definition of "sign area" found in the Mesa City Code.
3. Revisions to the basic design of Option 2 shall include elements to achieve a visual balance of the upper and lower portions of the sign; to be reviewed and approved by the Planning Director prior to submittal of an application for a sign permit to the Building Safety Division.
4. Compliance with all requirements of the Federal Aviation Administration regarding the use of visibility warning lights, if applicable.
5. The frequency of text message changes for the electronic message panel shall be limited to no more than one every fifteen (15) seconds.
6. No permit for the construction of a freeway landmark monument shall be issued prior to the issuance of a building permit for an automotive dealership whose sales include new cars.
7. The Council Use Permit authorizing the Freeway Landmark Monument shall expire if, following installation of the Monument, no parcels within the Property are utilized for vehicle sales for a continuous period of twenty-four (24) months. Upon such expiration, all rights to use such Freeway Landmark Monument shall automatically terminate and the Freeway Landmark Monument shall be removed by the owner of the Property within six (6) months.
8. The right to use the Freeway Landmark Monument shall be limited to parcels within the Property that have vehicle sales as their primary use. This right may not be assigned or otherwise transferred.
9. The Freeway Landmark Monument shall be located a minimum distance of no less than four hundred feet (400') from the eastern Property boundary.
10. The Freeway Landmark Monument shall not be used as an off-site sign or billboard as defined by the Mesa City Code.

City Attorney Debbie Spinner commented that in Option A, condition number 3, the correct language should be "Design Review Board" as opposed to "Design Review staff." She stated that if the Council were inclined to approve this option, it would be necessary for the case to be reintroduced.

Shelly McTee, an attorney representing the applicant, 11201 N. Tatum Boulevard, Phoenix, addressed the Council and provided a brief overview of various components of the case including the applicant's efforts to market the site for an auto dealership mall; the fact that the Council has already established a policy that the proposed site is an appropriate location for the Freeway Landmark Monument sign; and that the applicant has taken the necessary steps to notify the surrounding property owners of the sign.

Paul Bleier, Bleier Industries, 2030 West Desert Cove, Phoenix, displayed graphics in the Council Chambers depicting the Freeway Landmark Monument sign and commented that one of the last issues to be resolved is the final design of the bottom support structure and its continuity with adjacent buildings or other property improvements that would eventually be constructed at or near the sign. He advised that the applicant is comfortable with the design above the 55-foot height and has received approval by staff and the Design Review Board. Mr. Bleier stated that the applicant is agreeable to working with staff and the Planning Director to resolve those issues and urged the Council to approve Option C.

Discussion ensued relative to the fact that the applicant has confidence in the Planning Director reviewing and approving revisions to the lower part of the sign due to the fact it is the least visible section of the sign and would not be visible from the freeway, Sossaman Road or Hampton Street once the adjacent buildings are constructed; that it has been difficult to design the sign because it is Mesa's first Freeway Landmark Monument; that the applicant has had to design "by committee" and if the sign revisions were reviewed and approved by the Design Review Board, that process would continue; and that it is imperative that the applicant have the sign approval in place in order to market the site to potential vehicle dealerships.

Ms. Spinner briefly outlined the chronology of the various options and explained that if the Council is inclined to approve Option C, it has been properly introduced; however, Option A has not and would have to be re-agendized and brought back for consideration at a later time.

Councilmember Rawles advised that he is comfortable proceeding with Option C and requested an informal consensus from the Council regarding proceeding in that direction.

Councilmember Jones expressed support for Option C and stated that he has confidence that the Planning Director could make an appropriate determination as to whether there is a visual balance in the upper and lower portions of the sign.

It was moved by Councilmember Whalen that Zoning Case Z04-79 (Option C) be approved and that Ordinance No. 4308 be adopted.

Councilmember Whalen commended staff, the Planning and Zoning Board, Design Review Board and the applicant for their efforts and hard work relative to this matter.

Mayor Hawker voiced a series of concerns regarding this agenda item. He stated that he is opposed to the City approving signs of such an enormous height and dimensions; that the proposed sign is not what he had in mind for a Freeway Landmark Monument, especially given the Council's previous direction in this regard; that the sign depicted on the Elmo does not designate a particular location, but rather the names of various automobiles that could be purchased at that site; that he questioned the final design of the sign without first knowing what the design of the adjacent buildings would be; that it would be inappropriate for the Council to relinquish its control of citizen boards, such as the Design Review Board, offering input to the Council and giving that responsibility to the Planning Director; and that Council approval of the Freeway Landmark Monument sign would set a terrible precedent for the City and he would prefer a multi-jurisdictional prohibition of such signs.

Vice Mayor Walters expressed appreciation to the various representatives of the applicant who have met with her and attempted to make her comfortable with regards to this issue. She acknowledged that the limitations of the site are the result of a change in the pattern of the freeway at Sossaman Road. Vice Mayor Walters referred to Section B2 of the Freeway Landmark Monument Guidelines which states: "Having a form, texture, color and finish that incorporates representations complimentary to the primary architectural or natural features of the associated development or feature." She stated that because there is no specific development or project that she can associate with the sign, she is unable to support the motion. Vice Mayor Walters added that if this case were approved, she would hope that the revisions to the sign are reviewed and approved by the Design Review Board not because she does not have faith in the Planning Director, but because it is a major project for the City.

Discussion ensued relative to the balloon test to assess the potential height of the sign.

Councilmember Griswold said that the only issue the Council is being asked to consider tonight are the revisions to the bottom portion of the sign. He noted that he would trust staff to determine, once the adjacent buildings are constructed, whether the design of the sign is in conformity with those buildings. Councilmember Griswold added that the applicant has a good reputation for constructing high quality buildings.

Councilmember Rawles seconded the motion.

Councilmember Thom expressed support for the motion and commended everyone associated with the applicant for his or her efforts and hard work in this regard. She stated that the Freeway Landmark Monument sign is an important component of the auto mall project and added that she welcomes this new business venture to her district.

Additional discussion ensued among the Council and staff relative to the fact that the sign would be located along the applicant's southern property line and not within the ADOT retention basin; that along this southern boundary, the applicant has created a signage zone and entered into a stipulation that the sign would not be located any closer than 400 feet to Sossaman Road; that there has been confusion among the Council as to whether the upper portion of the sign has already been approved; and that in most cases, the Design Review Board takes action on a particular issue, but regarding this matter, it merely recommended approval of the upper portion of the sign to the Council.

Councilmember Rawles, in an effort to clarify the issue, stated that what is before the Council tonight is whether they should approve or not approve the upper and lower portions of the Freeway Landmark Monument sign; that if the Council approves the sign, particularly the upper part of the sign that has been recommended by Design Review Board, then must determine whether the revisions to the lower portion of the sign should be reviewed and approved by the Planning Director (Option C) or the Design Review Board (Option A).

Mayor Hawker stated that he envisions an additional option which would be to deny a Council Use Permit for a 90-foot high Freeway Landmark Monument sign at this location and also to reject the Design Review Board's recommendation of approval of the upper portion of the sign.

Upon tabulation of votes, it shows:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4308 adopted.

- *j. **Z04-81 (District 6)** The 1300 block of South Ellsworth Road (west side). Located south of Southern Avenue and west of Ellsworth Road (9.58acres). Rezone from AG to R-3 PAD and Site Plan Review. This request is to allow for a multi-residential development. James Barrons, owner; Sean Lake, Pew & Lake P.L.C., applicant – Ordinance No. 4303.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted except as noted below.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Compliance with the Residential Development Guidelines.
6. 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.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
8. All street improvements and landscaping to be installed in the first phase of construction.
9. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
10. All buildings shall have a minimum four-foot (4') wide apron measured from the face of the garage door to the edge of the drive aisle.

*k. **Z04-83 (District 6)** The 1600 to 1900 block of South Signal Butte Road (west side). Located south of Superstition Freeway and west of Signal Butte Road (66.7 acres). Site Plan Modification. This request is to allow for a regional commercial development. Bojer Land/Signal Butte Limited Partnership, owner; Elizabeth Gaston, Diversified Partners, applicant – Ordinance No. 4304.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 6-0-1 (Saemisch abstaining due to conflict of interest)).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below.
2. Compliance with all requirements of the Design Review Board.
3. All pad buildings to be architecturally compatible with the center.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, 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 street frontage landscaping to be installed in the first phase of construction.
7. Recordation of cross-access easements between all lots proposed in the subdivision plat.
8. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

9. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
10. Compliance with all requirements of the Subdivision Technical Review Committee.
11. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *l. **Z04-84 (District 6)** 6610 East Superstition Springs Blvd. Located southwest of US 60 and Power Road (4.15 acres). Site Plan Modification. This request is to allow development of two restaurant pad buildings. Perry Mann Investments (Brett Anz), owner; Mark A. Bowker, applicant – Ordinance No. 4305.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 5-0-2; Finter and Saemisch absent).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Compliance with all requirements of the Subdivision Regulations and Land Split process.

- m. **Z04-85 (District 1)** Generally located at the southeast corner of the 202 Freeway and Dobson Road intersection. Part A: The 800 - 1000 blocks of North Dobson Road (approximately 750 feet east of street frontage) Site Plan Review and rezone from R1-9 to C-2 BIZ for the development of a theater, retail and restaurant shops, and two pad buildings (32 acres+/-); Part B: Land on the east side of Dobson Road, starting approximately 600 feet north of West 8th Street and continuing north along Dobson Road approximately 1800 feet by 250 ft +/- . Rezone from M-1 and R1-9 to C-2 for the future development of pad buildings. (11 acres+/-). Bixby Arizona LLC (Robert Hurley, David Kibbee and Margaret Hurley Smith), owner; KRS Acquisitions Corp. (Mike Withey), applicant – Ordinance No. 4309.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 5-0-2; Finter and Saemisch absent).

1. For development within Part A as shown and described in the staff report:
 - a. Approval of C-2 BIZ zoning and compliance with the basic development as described in the Riverview at Dobson project narrative and Riverview at Dobson design guidelines, and as shown on the site plan and elevations submitted.
 - b. Compliance with all requirements of the Design Review Board.
 - c. Provide a pullout area for buses along the north property line with a tree-shaded pedestrian connection to the buildings, to be approved by the Planning Director.

- d. Extend tree-shaded walkways and pedestrian connections to adjoining future development sites along the east, west and south sides of Part A, to be approved by the Planning Director.
 - e. Provide cross access to adjoining future development sites at the east, west, and south sides of Part A, to be approved by the Planning Director.
 - f. Provide a screen wall, minimum height of six feet, along the north property line.
 - g. Provide extruded curbing and a five foot minimum temporary landscape area along the west and northwest edge of Part A, to be approved by the Planning Director.
 - h. Overall height of the theater tower and spire to be 96 feet tall maximum.
 - i. Top of the north, east, and south theater parapet walls to be a height sufficient to screen roof top mechanical equipment, or other acceptable screening device for the roof top mechanical equipment as approved by the Planning Director.
 - j. All public street improvements and street frontage landscaped setback areas to be installed in the first phase of the Part A development.
 - k. Any theater spire/tower lighting to be architecturally integrated, to be approved by the Planning Director.
2. For development within Part B as shown and described in the staff report:
 - a. Approval of C-2 zoning and future Site Plan Review and approval by the Planning and Zoning Board and City Council of future development plans for all pad sites: 3, 4, 5, 6, 7, 8, and 9.
 - b. Compliance with all requirements of the Design Review Board.
 - c. Future development to be in compliance with the Riverview at Dobson project narrative and Riverview at Dobson design guidelines.
 - d. All public street improvements and street frontage landscaped setback areas to be installed in the first phase of the Part A development.
3. For development within Parts A and B as shown and described in the staff report:
 - a. Incorporation into the Riverview at Dobson design guidelines, ground plane materials, textures, colors, patterns to reflect the river view design concept, and details regarding colors of site furniture, screening of dumpsters with well designed aesthetic gates, plant palette, screen walls, etc. to be approved by Planning Director.
 - b. Compliance with all City development codes and regulations, including Subdivision Regulations.
 - c. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
 - d. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
 - e. Compliance with all requirements of the Design Review Board.
 - f. 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.

- g. All public street improvements and street frontage landscaped setback areas to be installed in the first phase of the Part A development.

Mayor Hawker declared potential conflicts of interest on agenda items 9m, 9n, 9o and 9p and said he would refrain from discussion/participation in these agenda items. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

Vice Mayor Walters stated that because all four zoning cases are related to the same property, she would prefer that the citizens who wish to address the Council make one presentation and then the Council would vote on each case separately.

David Udall, 30 West 1st Street, an attorney representing a portion of the Hurley family and development team, provided a brief historical overview of the proposed development site (also known as the Hurley property). He reported that in the past several years, the City has considered several projects for the location including the Cardinals stadium and various retail development. Mr. Udall commented that as a result of input from the Council and the City, Bass Pro Shops, one of the largest retailers in the nation, has signed a Letter of Intent and the developer has also received a commitment from Cinemark, one of the largest national movie theater chains with over 3,000 movie screens. He stated that several Mesa auto dealers have been asked by their corporate headquarters to consider freeway locations and commented that a proposed auto mall portion of the development would provide the City with the flexibility and opportunity to accommodate such requests. Mr. Udall added that the developers intend to reserve 44 acres of the property for an employment center on Alma School Road. He also acknowledged the presence in the audience of Jerald Friedman, President of Kimco Developers, Inc. and Marty De Rito, owner of De Rito Partners.

Mike Withey, also representing the applicant, stated that the proposed development at the 202 freeway and Dobson Road is a tremendous opportunity for the City of Mesa not only to benefit economically, but also from a land use design standpoint. He thanked City staff for their efforts and hard work in meeting a series of important deadlines regarding various projects. Mr. Withey commented that the proposal is in full conformance with the Mesa General Plan and that the development is intended to be a quality destination retail center, combined with employment uses and an auto mall. He added that the developers have participated in an extensive citizen participation process and also conducted a series of meetings with various boards and commissions and civic organizations. Mr. Withey advised that what is before the Council this evening is to establish underlying zoning categories on the entire site, a request for a Council Use Permit for the Freeway Landmark Monument sign, and Site Plan approval for the entertainment district. He emphasized that the developer is not requesting site plan approval on the remainder of the property at this time and that none of the remaining parcels could be developed until the developer comes back with specific site plans, at which point there would be opportunities to solicit input from the public, staff, the Planning and Zoning Board, and ultimately the Council.

Bob Saemisch, Saemisch DiBella Architects, Inc., the project's architect, displayed a series of architectural renderings and highlighted the location and design of various components of the development. He stated that the movie theater/entertainment district and the Bass Pro Shop would comprise the first phase of construction. He also expressed appreciation to Principle Planner Dorothy Chimel and Senior Planner Laura Hyneman for their help and support on the project.

John Larry Wright, 923 North Heritage, a lifelong resident of Mesa and a homeowner in the area, expressed support for the development and urged Council adoption of the aforementioned zoning cases. He stated that he envisions Arizona residents from throughout the state coming to the Bass Pro Shop. Mr. Wright added that the Cinemark movie theater chain would also be a welcome addition to west Mesa.

W. Dee Montague, 553 North Orange Street, concurred with the remarks of the previous speaker and added that he wholeheartedly supports this exciting new development. He also suggested that the Freeway Landmark Monument sign be of sufficient height so that it is visible to the motorists traveling along the 202 Freeway.

Vice Mayor Walters stated that Dave Richins, 833 W. 11th Place, submitted a blue speaker card in support of the proposals, but did not wish to address the Council.

Planning Director John Wesley briefly highlighted the four zoning cases for adoption and stated that it is staff's recommendation that all four be approved. He also acknowledged Principle Planner Dorothy Chimel for her efforts and hard work in this regard.

Vice Mayor Walters commented that although she has been extremely involved with the citizen component of the development, she acknowledged Councilmember Whalen for his unwavering commitment to bring the various parties together for the betterment of the community.

Councilmember Whalen indicated that the Hurley family has owned the property at the site of the proposed development for over 100 years. He explained that it has always been the commitment of the family that whatever development was located on their property would serve and enrich the citizens of Mesa. Councilmember Whalen added that much of the project would be retained by family ownership and that the family intends to have a long-term presence within the community.

Councilmember Thom expressed enthusiasm for the project and welcomed the developers to the City of Mesa. She also commended the surrounding neighbors for their input and support of this exciting development.

Councilmember Griswold concurred with the comments of his fellow Councilmembers and stated that he looks forward to Bass Pro Shop coming to its new home in Mesa.

Councilmember Rawles reiterated his previous comments regarding his potential employment with Johnson Stewart Company, which owns property to the north and east of the proposed development. He expressed support for the four zoning cases and applauded the effort and quality of the development in its entirety.

Councilmember Jones concurred with the comments of the other Councilmembers and stated that the development is a testament to a tremendous amount of cooperation and participation by many individuals.

Vice Mayor Walters explained that when this item was first brought to her attention, she was concerned about the quality of the development, but when Mr. Saemisch was hired as the project architect, she was convinced that he would design a high caliber project. She stated that in her opinion, this is one of the most exciting and finest projects she has ever seen since

she has been a resident of Mesa. Vice Mayor Walters thanked the developers for responding to the concerns of the neighbors and stated that she expects the same type of response to continue with the future phases of the development. She also expressed appreciation to representatives from Kimco Developers, De Rito Partners, Bass Pro Shops and Cinemark Theater for their attendance at tonight's meeting.

It was moved by Councilmember Whalen, seconded by Councilmember Thom, that zoning case Z04-85 be approved and Ordinance No. 4309 be adopted.

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 and Ordinance No. 4309 adopted.

- n. **Z04-86 (District 1)** Located at the southwest corner of the 202 Freeway and Dobson Road intersection. The 1000 - 1100 blocks of North Dobson Road (west side). Rezone from M-1 and R1-9 to C-3 for the future development of an auto mall (33 acres+/-). Bixby Arizona LLC (Robert Hurley, David Kibbee and Margaret Hurley Smith), owner; KRS Acquisitions Corp. (Mike Withey), applicant – Ordinance No. 4310.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 5-0-2; Finter and Saemisch absent).

1. Site Plan Review and approval by the Planning and Zoning Board, Design Review Board, and City Council prior to development.
2. Compliance with the Riverview at Dobson project narrative and Riverview at Dobson design guidelines.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Compliance with all requirements of the Subdivision Regulations.
6. For Freeway Landmark Monument separate review and approval of a Council Use Permit is required.
7. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
8. That for five (5) years following City Council approval of the rezoning, the property will be limited to the following permitted uses: motor vehicle related uses, motor vehicle dealerships, and all uses associated therewith including, but not limited to, new and used vehicle sales, leasing, service, repair, body shops, wash, storage, display and all related uses. After five (5) years, all uses permitted in the C-3 district shall be allowed.

It was moved by Councilmember Whalen, seconded by Councilmember Thom, that Zoning Case Z04-86 be approved and Ordinance No. 4310 be adopted.

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 and Ordinance No. 4310 adopted.

- o. **Z04-87 (District 1)** Generally located north and east of the Dobson Road and 8th Street intersection, and southwest of the Alma School Road and 202 Freeway. The 800 – 1,000 blocks of North Dobson Road (east side). Rezone from R1-43 and R1-9 to C-3 for future retail development (33 acres +/-); and the 1700 - 1900 blocks of West 8th Street (north side). Rezone from M-1 and R1-9 to C-2 for future retail development (94 acres +/-); and the 1100 block of North Alma School Road (west side) Rezone from R1-9 to PEP for future planned employment park development (48 acres +/-). Bixby Arizona LLC (Robert Hurley, David Kibbee and Margaret Hurley Smith), owner; KRS Acquisitions Corp. (Mike Withey), applicant – Ordinance No. 4311.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 5-0-2; Finter and Saemisch absent).

1. Site Plan Review and approval by the Planning and Zoning Board, Design Review Board, and City Council prior to development.
2. Compliance with the Riverview at Dobson project narrative and Riverview at Dobson design guidelines.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Compliance with all requirements of the Subdivision Regulations.
6. For Freeway Landmark Monument separate review and approval of a Council Use Permit is required.
7. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.

It was moved by Councilmember Whalen, seconded by Councilmember Thom, that Zoning Case Z04-87 be approved and Ordinance No. 4311 be adopted.

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 and Ordinance No. 4311 adopted.

- p. **Z04-88 (District 1)** East and West of Dobson Road, along the 202 Freeway (south side). Council Use Permit. This request is to consider the development of freeway

landmark signs. Bixby Arizona LLC (Robert Hurley, David Kibbee and Margaret Hurley Smith), owner; KRS Acquisitions Corp. (Mike Withey), applicant – Ordinance No. 4312.

P&Z Recommendation: Approval with Conditions (Vote: Passed: 3-2-2; Finter and Saemisch absent).

1. Compliance with the basic design, sign area, location, materials and colors of the Freeway Landmark Monuments as shown on the submitted site plan and the “Freeway Pylon Signs” exhibits and as described in the Riverview at Dobson project narrative, with a total of four (4) landmark monuments for the Riverview at Dobson development. Freeway landmark monuments #1 and #2 are to be 60 feet tall, maximum; freeway landmark monuments #3 and #4 are to be 70 feet tall, maximum.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Federal Aviation Administration regarding the use of visibility warning lights, if applicable.
4. No permit for the construction of freeway landmark monuments shall be issued prior to the issuance of a building permit for the phase one development.
5. Freeway landmark monuments shall not be used as an off-site sign or billboard as defined by the Mesa City Code and shall be limited to advertising the Riverview at Dobson development.
6. The sign area is to comply with the Zoning Ordinance 11-14-3E2 whereas signs are to provide opaque backgrounds so that only the sign copy is illuminated.
7. Provide two half-size color elevations, one full size and one 8-1/2 X 11 set of reproducible revised exhibits, site plans, and monument sign elevations showing compliance with conditions of approval for this case to the Design Review Staff prior to submitting for building permit application.
8. Compliance with all requirements of the Development Services Department (Engineering, Traffic, Solid Waste and Facilities, etc.)
9. The electronic message display to comply with the Freeway Landmark Monument Guidelines including:
 - a. The display is limited to text messages only, with no animation or video.
 - b. The message change sequence is accomplished immediately or by means of fade or dissolve modes, with each message being displayed for a minimum period of fifteen (15) seconds.
 - c. No continuous traveling or scrolling displays allowed.
 - d. The intensity of the LED display shall not exceed the levels specified in the Freeway Landmark Monument Guidelines.
10. Written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified in the Freeway Landmark Monument Guidelines and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Building Safety Director.
11. One, only, Freeway Landmark Monument to contain a double-sided electronic message display.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that Zoning Case Z04-88 be approved and Ordinance No. 4312 be adopted.

Vice Mayor Walters clarified that although she voted in opposition to the previous Freeway Landmark Monument sign ordinance, she would be supportive of this item because the architectural elements of the sign are consistent with the architectural elements of the project which have been designed. She also expressed support for the sign's proposed height in order to provide greater visibility because of the depressed nature of the land in the area.

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 and Ordinance No. 4312 adopted.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

10. Consider the following subdivision plats:

- *a. "PORTER PLAZA OFFICE CONDOMINIUMS," – (Council District 3) – 500 block of West Southern Avenue (south side) located south and west of Southern Avenue and Country Club Drive. 12 O-S PAD office condominium units (1.29 acres) Porter Family Limited Partnership, an Arizona Limited Partnership, owner; Standage & Associates, Ltd. engineer.
- *b. "HACIENDAS DEL ESTE," – (Council District 5) – 12000 block of East University Drive (south side) located south and east of University Drive and Crismon Road. 57 R1-7 PAD single residence lots (11.44 acres) Azkand Land, LLC, Richard Everhart, Sr., Managing Member, owner; David J. Buchli Engrs, Ltd., engineer.
- *c. "MOUNTAIN VILLAGE AT LAS SENDAS," – (Council District 5) – 6900 block of East Eagle Crest Drive (east side) located north and east of Thomas Road and Power Road. 34 R1-7 PAD DMP single residence lots (14.85 acres) Sonoran Desert Holdings, L.L.C., Jeff Blandford, President, owner; Wood/Patel, engineer.

11. Items from citizens present.

There were no items from citizens present.

Mayor Hawker stated that tomorrow is Election Day and encouraged everyone to vote.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:20 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 1st day of November 2004. 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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