

# COUNCIL MINUTES

July 20, 1998

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level meeting room of the Council Chambers, 57 East 1st Street, on July 20, 1998 at 5:47 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None  
  
POLICE OFFICER  
PRESENT  
  
Marc Therre

## OFFICERS PRESENT

C.K. Luster  
Neal Beets  
Barbara Jones

Invocation by Reverend Jack D. O'Brien, Grace Fellowship Bible Church.

Pledge of Allegiance led by Scott Jaffa.

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

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the minutes of June 18 and 29, 1998 and July 6 and 9, 1998 be approved.

Carried unanimously.

### 2. Consider all consent agenda items.

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

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

Carried unanimously.

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

#### \*a. EDWARD D. POLE, AGENT

New Beer and Wine Store License for Fast Tracks Gas-N-Go, 804 North Country Club Drive. The Beer and Wine Store License previously held at this location by Phillip Edward Hernandez, Agent, PEH Enterprises, Inc., will revert back to the State.

\*b. KURTIS S. MONTGOMERY, AGENT

New Restaurant License for Applebee's Neighborhood Grill and Bar, 1143 North Higley Road. This is a new business; no previous liquor licenses at this location.

\*c. STANLEY T. NICPON, AGENT

New Restaurant License for Pizzeria Uno, 6821 East Superstition Springs Boulevard. This is a new business; no previous liquor licenses at this location.

4. Consider the following contracts.

\*a. Annual supply contract for automotive brake parts as requested by Fleet Support Services.

The Purchasing Division recommends accepting the lowest overall bid meeting specification by Arizona Brake & Clutch Supply for annual purchases estimated at \$150,000.00.

\*b. Advanced Traffic Management System as requested by the Transportation Division.

The Purchasing Division recommends accepting the proposal by Econolite Control Products, Inc. at \$680,573.00 plus 5.0% sales tax of \$34,028.65 for a total of \$714,601.65.

\*c. 6,500 black refuse containers and 5,300 green waste refuse containers as requested by the Solid Waste and Facilities Division.

The Purchasing Division recommends authorizing an additional purchase option from RFB #97014 with the low bid by Rehrig Pacific Company at \$506,692.00 plus 5% use tax of \$25,334.60 for a total of \$532,026.60.

\*d. Lewis Substation electric power 69kV transformer as requested by the Utilities Department.

The Purchasing Division recommends accepting the bid by Virginia Transformer Corporation at \$272,035.00 including testing and a three-year warranty. Transmission-related transformers are exempt from sales/use taxes.

\*e. Two 69kV power circuit breakers for the Lewis Substation as requested by the Utilities Department.

The Purchasing Division recommends accepting the low bid by Alstom Transmission & Distribution at \$56,590.00. Transmission-related circuit breakers are exempt from sales/use taxes.

\*f. One new Ladder Tender Fire Apparatus as requested by the Fire Department.

The Purchasing Division recommends authorizing an additional purchase option from RFB #97100 with the low bidder, Becker Fire Equipment, at \$165,421.00 plus 5% use tax of \$8,271.05 for a total of \$173,692.05.

\*g. Communications Building and Monopole at Fire Station No. 13 and Communications Building Demolition and New Building Installation at Desert Wells No. 14.

This project involves the construction of new communications facilities.

Recommend award to low bidder, High Desert Communications, in the amount of \$173,567.00.

h. Hawes Road Waterline and Gas Main Installation.

This project involves the installation of a new waterline and new gas line in northeast Mesa along Hawes Road from Thomas Road to McDowell Road.

Recommend award to low bidder, K. R. Swerdfeger Construction, Inc., in the amount of \$545,409.20.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

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

Upon a tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

i. Pioneer Park Restroom Facility.

This project involves the construction of a new restroom facility at Pioneer Park.

Recommend award to low bidder, Triad Technology Corporation, in the amount of \$298,000.00.

Councilmember Hawker indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

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

Upon a tabulation of votes, it showed:

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

Mayor Brown declared the motion carried unanimously by those voting.

5. Introduction of the following ordinance and setting August 3, 1998 as the date for the public hearing on this ordinance.

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of these ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- a. Changing the zoning of certain property described in Zoning Case HL98-001TC, adopting an official supplementary zoning map, and providing penalties for the violation thereof.

Councilmember Jaffa stated that he initially expressed concern regarding the proposal but now supports the rezoning, given the understanding that designation of the historic overlay district does not obligate the City to renovate the structure and provides a six-month delay should a proposal be made to demolish the building. Councilmember Jaffa noted that applications would require approval by Council.

It was moved by Councilmember Jaffa, seconded by Vice Mayor Giles, that an ordinance be introduced changing the zoning of certain property described in Zoning Case HL98-001TC, adopting an official supplementary zoning map, and providing penalties for the violation thereof.

Community Development Manager Wayne Balmer noted that staff has requested that the date for the public hearing on the ordinance be continued to August 31, 1998 to ensure that all legal requirements for publication are met.

Councilmember Hawker indicated support of the motion to allow the process to continue but requested additional information pertaining to projected use of the facility after the Performing Arts Center has been constructed; operating/maintenance costs; renovation costs, particularly in relation to air conditioning; action necessary to qualify for eligibility in the National Register of Historic Places; and restrictions placed upon the structure if included in the National Register.

Councilmember Pomeroy spoke in favor of the overlay district and the importance of preservation, noting that three schools have previously been destroyed in Mesa.

Carried unanimously.

5.1. Consider the following resolutions.

- \*a. Authorizing the use of eminent domain to acquire property at 1365 South Gilbert Road - Resolution No. 7237.

This parcel is needed for the installation of public utilities.

- \*b. Authorizing the sale of City property adjacent to 2042 North Sossaman Road - Resolution No. 7238.

This sale is requested by the adjacent property owner to accommodate an existing recreational vehicle pad.

6. Consider the following ordinances.

- \*a. Relating to a Council Use Permit; amending Ordinance 2769 that established the conditions for issuance of a Council Use Permit to Paz de Cristo, 424 West Broadway Road - Ordinance No. 3493.

- b. Pertaining to Title 5, Business Regulations; amending Chapter 13 of the Mesa City Code regarding the imposition of Residential Development Tax; and providing penalties for the violation thereof - Ordinance No. 3501.

*and*

- c. Eliminating Title 5, Section 20 of the Mesa City Code relating to payments in lieu of the Residential Development Tax; replacing Title 5, Section 17 of the Mesa City Code relating to Development Fees; and providing penalties for the violation thereof - Ordinance No. 3502.

Melba Bryan, 1008 East 7th Avenue, spoke concerning the growth of the City and encouraged the appropriate utilization of City funding.

Greg Alpert, representing Valley Partnership, 1300 East Missouri #A200, Phoenix, expressed appreciation for the opportunity to speak. Mr. Alpert advised that Valley Partnership is an association of approximately 360 individuals/organizations with the development community. Mr. Alpert noted Valley Partnership's support for the City's intent that growth pay for growth. Mr. Alpert indicated that Valley Partnership has been working with staff to address concerns expressed by the development community and looks forward to continuing to work together to address remaining concerns involving particular language within the ordinances.

Mr. Alpert requested an opportunity to be involved in discussions pertaining to arterial streets fees or additional fees that may be considered by the City.

Mayor Brown expressed appreciation to Valley Partnership for their input relative to the development of the proposed ordinances.

Mayor Brown thanked Ms. Bryan and Mr. Alpert for their comments.

Councilmember Pomeroy spoke in favor of the ordinances and the concept of growth paying for growth but indicated a preference for utilization of the term "may" instead of "shall" in relation to adjustments for inflation.

Mayor Brown suggested that the modification proposed by Councilmember Pomeroy be considered in conjunction with additional amendments currently being reviewed by staff.

Councilmember Hawker stated support for the ordinances. Councilmember Hawker read excerpts from the ordinances under the headings "Findings and Purpose" and "Intent" concerning the City's objective of ensuring that new development bear a proportionate share of the cost of various required improvements to the City. Councilmember Hawker encouraged staff to consider streets and stormwater impact fees to assist in recouping costs.

In response to a question from Councilmember Davidson, Mayor Brown stated that impact fees will be reviewed periodically and that additional amendments to the ordinances may be presented to Council for consideration in the near future.

City Attorney Neal Beets noted that any modifications to the ordinances will require reintroduction, publication, and a public hearing.

Councilmember Jaffa spoke in favor of growth paying for growth and indicated support for the ordinances. Councilmember Jaffa expressed the opinion that the proposed fees are less than those in surrounding communities and encouraged staff to continue to review the fee structure.

Councilmember Kavanaugh advised that considerable effort has been expended in developing the proposed fees. Councilmember Kavanaugh stated support for the ordinances.

Mayor Brown commented concerning the extensive input received in preparing the ordinances.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, that Ordinance No. 3501 be adopted.

Carried unanimously.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, that Ordinance No. 3502 be adopted.

Carried unanimously.

- \*d. **A98-2** Annexation of 345+ acres east of Signal Butte Road from East Broadway Road south along the CAP Canal to East Southern Avenue and east to Meridian Drive. Initiated by property owners - Ordinance No. 3494.

7. Authorizing the City Manager to enter into a contract with the Mesa Convention and Visitors Bureau to continue promoting tourism and convention business in Mesa.

Bill Brando, 61 South Macdonald, expressed concern regarding the building structure utilized by the Mesa Convention and Visitors Bureau/Chamber of Commerce and requested information pertaining to ownership and rental fees/payments. Mr. Brando asked that Council consider tabling this issue.

Mayor Brown noted the importance of the Convention and Visitors Bureau and the Chamber of Commerce to the City and commented concerning Council's review of activities. Mayor Brown indicated support for the proposed contract with the Visitors Bureau but asked that staff provide the information requested by Mr. Brando. Mayor Brown encouraged Mr. Brando to contact him should he have additional questions.

Mayor Brown thanked Mr. Brando for his input.

It was moved by Vice Mayor Giles, seconded by Councilmember Kavanaugh, to authorize the City Manager to enter into a contract with the Mesa Convention and Visitors Bureau to continue promoting tourism and convention business in Mesa.

Carried unanimously.

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

- \*a. **Z98-34** The northeast corner of University and Stapley Drives. Rezone from PF, R1-6, R-2 and C-1 to C-2 (10+ acres). This case involves development of a grocery store retail center. W.A.M.P.A. and SRP, owners; The Barclay Group/Ralph Pew, applicants. **CONTINUED FROM THE JUNE 15, 1998 CITY COUNCIL MEETING. APPLICANT HAS REQUESTED A CONTINUANCE TO THE AUGUST 3, 1998 REGULAR COUNCIL MEETING.**

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first;

4. All street improvements and perimeter landscaping to be installed in the first phase of construction; and
  5. Compliance with all requirements of the Design Review Board.
- b. **Z98-36** 1816 East Brown Road. Rezone from R1-9 to O-S (1.25 acres). This case would change the designation of an adult care home to an assisted living facility. Ray and Darlene Pasternack, owners/applicants. **A 3/4 VOTE IS REQUIRED TO APPROVE THIS REQUEST** - Ordinance No. 3503.

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

1. Compliance with the basic development as described in the letter dated April 27, 1998 and as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first;
5. Review and approval of a Special Use Permit by the Board of Adjustment for an assisted living facility; and
6. Low-profile signage not to exceed 24 square feet in area.

Mayor Brown noted that a legal protest has been filed relative to this case and that a 3/4 vote is required for approval.

Ray Pasternack, applicant, advised that he has submitted a letter to staff indicating a willingness to reduce the size of the proposed signage from 18 square feet to 10 square feet. Mr. Pasternack spoke concerning the importance of the sign in identifying the property for clients and visitors.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that Ordinance No. 3503 be adopted, with the provision that signage be reduced to 10 square feet in area.

Councilmember Hawker expressed concern that the conditions for approval listed in the ordinance state that signage will not exceed 24 square feet rather than specifying a dimension of 10 square feet. City Attorney Neal Beets stated that the applicant has agreed to a size of 10 square feet and will be required to appear before Council should he wish to modify the signage.

Mr. Pasternack said that he does not intend to request a modification to the size of the signage.

Carried unanimously.

- \*c. **Z98-38** The northwest corner of Stapley Drive and the Freeway. Rezone from O-S and C-2 to R-4 (9.9 acres). This case involves the development of an apartment complex. State Savings Mortgage Co., owner; Gray Development, applicant - Ordinance No. 3495.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Design Review Board; and

5. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.

Councilmember Jaffa commended Stephen Earl and Gray Development, applicant, for their efforts in presenting a high-quality product and amenities. Councilmember Jaffa expressed the opinion that the project will be of benefit to the City.

- \*d. **Z98-40** 919 and 925 North Stapley Drive. Rezone from R-4 to O-S (1± acre). This case involves the establishment of a conforming zoning district for an existing office development. Daniel K-H Chan, owner/applicant - Ordinance No. 3496.

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

1. Compliance with the basic development as shown on the site plan submitted; and
2. Enhanced landscaping to be approved by staff.

- \*e. **Z98-41** The southwest corner of Stapley Drive and McKellips Road. Site plan modification (4± acres). This case involves the development of a gas station and retail buildings. McStapley, L.L.C., owner; Jason Morris, applicant - Ordinance No. 3497.

P&Z Recommendation: Approval with conditions (Vote 6-1, Shipley Nay).

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. Compliance with all requirements of the Subdivision Regulations regarding land splits;
6. Compliance with all requirements of the Design Review Board;
7. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps; and
8. Compliance with the letter from the applicant dated June 18, 1998.

- \*f. **Z98-43** The northeast corner of Stapley Drive and Baseline Road. Requesting approval of a Council Use Permit (37± acres). This case involves the development of a group retail center on property zoned M-1. Mt. Baldi Limited Partnership and Baseline Park Properties, Ltd., owner; Vestar Development Co., applicant - Ordinance No. 3498.

P&Z Recommendation: Approval with conditions (Vote 6-1, Shipley Nay).

1. Compliance with the basic development and as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first;
5. Compliance with all requirements of the Subdivision Technical Review Committee;
6. Compliance with all requirements of the Design Review Board for all buildings;
7. All pad buildings to be architecturally compatible with the center;

8. Nonconforming and/or prohibited signs shall be brought into conformance prior to the issuance of a building permit;
9. Review and approval of a Special Use Permit by the Board of Adjustment for comprehensive sign plan; and
10. The final ingress/egress plan to be approved by the Transportation Department.

\*g. **Z98-46** 6447 East Southern Avenue. Site plan review (1.35 acres). This case involves the development of a Black-eyed Pea Restaurant. WestCor Partners, owner; DenAmerica Corp., applicant - Ordinance No. 3499.

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all City development codes and regulations;
3. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first;
5. Recordation of cross-access and reciprocal parking easements; and
6. Compliance with all requirements of the Design Review Board.

\*h. **Z98-48** South of the southwest corner of McKellips and Gilbert Roads. Site plan review (.95 acre). This case involves the development of a Tutor Time Day Care Center. Kim Feddick, owner; B.J. Peters, applicant - Ordinance No. 3500.

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

1. Compliance with the basic development as shown on the site plan and elevations submitted, except as noted below;
2. Compliance with all requirements of the Public Works Department (Engineering and Traffic Engineering, etc.);
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first;
4. Compliance with all requirements of the Design Review Board;
5. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report; and
6. Compliance with the letter from the applicant dated June 22, 1998.

9. Consider the following subdivision plats.

- a. "THE COMMONS INDUSTRIAL PARK AT FALCON VIEW UNIT 3" - The 4100 block of East McDowell Road (north side); 13 M-1 industrial lots (25.5 acres). Travelers Construction Co., L.C. and Western Commerce Co., L.L.C., developers; Ace Engineering, Inc., engineer.

Councilmember Jaffa indicated that he had a potential conflict of interest in connection with the matter now under discussion which he wanted recorded in the minutes of the meeting, and because of such conflict of interest, he would refrain from voting upon or otherwise participating in any manner in connection with same.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Giles, to approve the subdivision plat for "The Commons Industrial Park at Falcon View Unit 3."

Upon a tabulation of votes, it showed:

Regular Council Meeting

July 20, 1998

Page 10

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

NAYS - None

ABSTAIN - Jaffa

Mayor Brown declared the motion carried unanimously by those voting.

10. Adjournment.

It was moved by Vice Mayor Giles, seconded by Councilmember Pomeroy, that the Regular Council Meeting adjourn at 6:34 p.m.

Carried unanimously.

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WAYNE BROWN, MAYOR

ATTEST:

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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 20th day of July 1998. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this \_\_\_\_ day of \_\_\_\_\_ 1998

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BARBARA JONES, CITY CLERK