



COUNCIL MINUTES

June 7, 2004

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on June 7, 2004 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Dennis Kavanaugh
Janie Thom
Claudia Walters
Mike Whalen

NEWLY-ELECTED COUNCIL

Tom Rawles

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

COUNCIL ABSENT

None

Invocation by Guru Roop Kaur Khalsa, Sikh Religious Leader.

The Pledge of Allegiance was led by Victoria Walters, the daughter of Councilmember Claudia Walters.

Mayor's Welcome.

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

1. Remarks by Vice Mayor Dennis Kavanaugh.

Vice Mayor Kavanaugh congratulated the Councilmembers being sworn into office this evening and stated that he is confident they will have the community's best interest at heart in their future decision-making. He stated that to be a successful leader in City government, one cannot be timid or narrow-minded and must maintain a sense of humor and a dose of patience. Vice Mayor Kavanaugh also commented that leadership requires that the Councilmembers recognize that Mesa is a diverse community with varied needs and it has a richness of character and cultures which contribute to its strength and make it a wonderful community in which to live. He stressed that the Councilmembers must be dedicated to constituent service and added that while it is admirable to discuss political theories and philosophies at Council meetings, it is just

as important to attend neighborhood meetings and respond to a citizen's e-mails and telephone calls.

Vice Mayor Kavanaugh stated that the City of Mesa is truly blessed by its talented employees, and he emphasized that he has always valued their friendship and support. He encouraged the community to continue its support of staff as well by providing the necessary resources so that staff can continue to provide the services that Mesa residents have come to know and expect. Vice Mayor Kavanaugh also expressed appreciation to his family, professional colleagues and friends for their encouragement and support of him throughout his tenure as a Councilmember.

Vice Mayor Kavanaugh further stated that seven years ago, he gave a speech in which he argued that Mesa was not the land of wide streets and narrow minds and commented that unfortunately, the media misappropriated the phrase to criticize some of the Council's decisions. He stressed that he did not believe that to be the case then and nor does he believe it now. Vice Mayor Kavanaugh remarked that as a Councilmember, he had the unique opportunity to make a difference with respect to the manner in which the City operates by participating in various policy decision processes and added that he is proud of his and the Council's record.

Vice Mayor Kavanaugh concluded his remarks by stating that although he is leaving elected office this evening, he intends to continue his service to the community through volunteer work with many nonprofit organizations. He stated that he would endeavor to strengthen those partnerships to the betterment of the City of Mesa.

Mayor Hawker expressed appreciation to Vice Mayor Kavanaugh for his dedication to and hard work for the City of Mesa that he demonstrated throughout his tenure as a Councilmember and Vice Mayor.

2. Swearing in and seating of Mayor Keno Hawker and Councilmembers:

Mayor Hawker was sworn in by Genella Hawker.

Councilmember Walters was sworn in by Steven Walters.

Councilmember Whalen was sworn in by Kelly Whalen.

Councilmember Rawles was sworn in by Linda Rawles.

3. Remarks and introductions by the Mayor and Councilmembers.

Mayor Hawker:

Mayor Hawker introduced the members of his family present in the audience and thanked them for their support. He reflected back on the many friends and business colleagues who encouraged him to run for public office and also acknowledged his past and current staff for their efforts and hard work.

Councilmember Walters:

Councilmember Walters expressed appreciation to the members of her family present in the audience. She also thanked her campaign committee chairman and treasurer, as well as the many supporters who had the confidence in her to once again represent them in District 1.

Councilmember Whalen:

Councilmember Whalen introduced the members of his family present in the audience and said he looks forward to a year of great cooperation among the Council.

Councilmember Rawles:

Councilmember Rawles expressed appreciation to Vice Mayor Kavanaugh for his eight years of service to District 3 and the City of Mesa. He also introduced family, friends and campaign workers who were in attendance to witness his swearing in. Councilmember Rawles dedicated his first term on the Council to the legacy and memory of Thomas Jefferson, James Madison and Ronald Reagan and added that he looks forward to his new role as a Councilmember.

4. Inaugural remarks by Mayor Hawker.

Mayor Hawker commented that in his first term as Mayor, the City developed four master plans (transportation, economic development, parks and recreation, and land use), which were compiled into the Mesa 2025 General Plan Update (eventually approved by the voters in November 2002). He explained that the vision of the General Plan was to provide for a prosperous and economically balanced community, to address the need for future housing and employment opportunities, and to support Mesa as a sustainable community in the 21st century.

Mayor Hawker stated that as part of the General Plan Update, each of the master plans outlined the necessary costs to fund the implementation of various programs, and noted that one of the goals of the Council in the next four years is to determine how to financially accomplish those tasks. He indicated that Councilmember Jones is serving as Chairman of the Ad Hoc Financing the Future Citizen Committee, a group that is charged with assessing the City of Mesa at build out and examining each City department to learn how Mesa is financed, the services it currently provides, and what services could be eliminated, increased and modernized. He added that his only parameter to the committee was that the City restrict the growth of government to population and inflation.

Mayor Hawker also commented that as one of 24 municipalities within Maricopa County, it is important that Mesa and all of the surrounding communities endeavor to foster regional cooperation on a variety of issues. He encouraged Mesa voters to support the passage of the half-cent sales tax extension that would provide funding for greater transportation infrastructure throughout Mesa and the entire Valley. He added that during his first term as Mayor, he has actively participated on many regional boards and intends to continue those efforts to ensure that Mesa's interests are well represented.

5. Election of Vice Mayor.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that Councilmember Walters be appointed to the position of Vice Mayor of the City of Mesa.

Mayor Hawker commented that he would be pleased to have Councilmember Walters serve as Vice Mayor and briefly commented on her extensive accomplishments and service to the City.

Carried unanimously.

Mayor Hawker congratulated Vice Mayor Walters on her election to the position of Vice Mayor.

6. 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 Councilmember Griswold, seconded by Vice Mayor Walters, that the consent agenda items be approved.

Councilmember Thom requested that agenda 15o be added to the consent agenda.

Councilmember Griswold and Vice Mayor Walters amended their motion and second to include agenda item 15o as part of the consent agenda.

Carried unanimously.

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

Minutes from the April 5 and May 6, 13, 17 and 27, 2004 Regular Council meetings.

8. Conduct a public hearing for the following annexation:

- a. **A04-03** Thunder Mountain Subdivision, located on the northeast corner of Hawes and McDowell Roads. (154.86± ac.) Initiated by the property owners. Note: a subdivision with numerous owners.

Mayor Hawker announced that this is the time and place for a public hearing regarding the annexation of the Thunder Mountain Subdivision.

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

9. Conduct a public hearing on adjustments of the current development impact fees and adoption of new storm water and general government development impact fees (see item no. 14i).

Mayor Hawker announced that this is the time and place for a public hearing regarding adjustments of the current development impact fees and adoption of new storm water and general government development impact fees.

Steve Adams, Chairman of the Mesa Chamber of Commerce Board, 1302 South Country Club Drive, addressed the Council relative to this agenda item. He distributed copies of a document entitled "Mesa Chamber Position on City of Mesa's 2004 Proposed Impact Fees" and read the document into the record. (See Attachment 1.)

Mayor Hawker advised that Robert McNichols, 5601 East Longbow Parkway, submitted a speaker card indicating his opposition to the fee adjustments, but did not wish to address the Council.

Erin Patterson, a representative of the Home Builders Association of Central Arizona, 3200 East Camelback Road, Suite 180, Phoenix, expressed a series of concerns relative to the proposed adjustments in impact fees. She stated that the methodology utilized to implement the fees might be appropriate to determine levels of service, but not to assess a schedule of impact fees. Ms. Patterson also commented that in her opinion, the City is proposing to increase fees to fund projects for which there is no specific information and added that the impact fee proposal includes projects that are not eligible for impact fee monies.

Craig Ahlstrom, 2233 S. Springwood Boulevard, commented that he hoped the Council would be reasonable in their consideration of the proposed adjustments of impact fees. He also questioned the appropriateness of the Cultural Facilities and general government fees and urged the Council to consider the issue carefully before it proceeds further.

Deputy Building Safety Director Jeff Welker displayed graphics in the Council Chambers and provided a short synopsis of the methodology (incremental expansion) utilized by staff to determine impact fees. He reported that staff is recommending an update of the current development impact fees and the establishment of two new fees (general government and storm water). Mr. Welker explained that the consultant's report offers a comparison of impact fees currently charged in the City and throughout metropolitan Phoenix and said that the data consistently reflects that Mesa's current and potential fees are well below the Valley average in all land use categories.

Mr. Welker commented that in addition to the proposed amendments and new fees, the following areas within the current ordinance are proposed for amendment to assist staff in the accurate and consistent assessment of impact fees for new development: 1.) the exemption of water impact fees for landscape water meters in the common areas of new residential subdivisions; 2.) defining the method of rounding in the determination of square footage for the purpose of calculating non-residential impact fees; and 3.) eliminating the ambiguity that exists in the assignment of land use types for nonresidential developments.

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

10. Conduct a public hearing on the proposed Fiscal Year 2004-05 Budget Plan.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed Fiscal Year 2004-05 Budget Plan.

In response to a request from Mayor Hawker, Budget Director Jamie Warner provided a brief overview of the proposed Fiscal Year 2004-05 budget for the benefit of the viewing audience and those citizens present in the Council Chambers.

Mary Hartle-Smith, 220 North 22nd Place, a representative of the National Federation of the Blind, voiced a series of concerns regarding the potential loss of various City transit programs which would severely impact Mesa's disabled community's ability to travel around the City.

Mark Feliz, 1038 West Hillview, reiterated the comments of the previous speaker and stressed that it is imperative that the City of Mesa provide a comprehensive multi-modal transportation system to meet the needs of disabled residents as well as their families.

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

11. Consider tentative adoption of the proposed Fiscal Year 2004-05 Budget Plan.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that the tentative adoption of the proposed Fiscal Year 2004-05 Budget Plan be approved.

In response to a question from Mayor Hawker, City Attorney Debbie Spinner clarified that per State law, the Council is considering the adoption of the tentative budget that would set the maximum amount that the City could spend in the next fiscal year. She explained that at the June 21, 2004 Regular Council meeting, the final budget would be presented to the Council for adoption and stated that the City Manager could make adjustments to spend less than that amount, but not more without seeking Council approval.

Councilmember Rawles stated that because the item would be revisited by the Council at the June 21, 2004 Regular Council meeting, he would limit his remarks to the proposed utility rate increases. He commented, among other things, that he is in stark disagreement with a conclusion reached at the budget hearings that the proposed rate increases are necessary to combat or overcome increased costs being incurred by the Utilities Department; that in his mind, there are two things which indisputably contradict that conclusion including the fact that during the budget hearings, the Utilities Manager stated that the rate increases were being driven not by the needs of his department, but by the needs of the General Fund, and also that the amount of money being transferred from the utility enterprise account into the General Fund constitutes far more than simply an increase in the utilities operating costs. Councilmember Rawles stated that he is opposed to rate increases that attempt to impose the balancing of Mesa's budget on the backs of its residents as they take their showers, cook their meals, cool their homes, put out their garbage, and flush their toilets. He added that he intends to propose a series of budget cuts that would offset the decrease in revenue if the rate increases were not adopted.

Councilmember Thom commended Councilmember Rawles for his "astute observations." She stated that this year's proposed budget is an estimated 15% increase over last year's and commented that Mesa has not experienced a commensurate increase in population, nor has it seen an inflation rate of 15% in many years. She added that in her opinion, it is unconscionable to raise the utility rates "on the backs of the utility users," and especially to fund cost of living raises for City employees. Councilmember Thom noted that she submitted a list constituting

over \$133 million in cost savings which has been ignored by staff and her fellow Councilmembers.

Mayor Hawker expressed support for adoption of the tentative budget. He commented that Mesa has three primary revenue sources including State-shared revenue, sales tax and a utility enterprise account. He acknowledged that if the utility fund transfers were not implemented, it would dramatically change the manner in which the City is financed. Mayor Hawker stated that he appreciated Councilmember Rawles' comments regarding his opposition to the utility rate increases and looks forward to a more in-depth discussion with the Council regarding this issue. He added that he would be willing to address Councilmember Thom's cost saving suggestions with her.

In response to Mayor Hawker's comments, Councilmember Rawles clarified that at this time, it would be irresponsible to advocate the abolishment of the utility enterprise fund as a funding source, but commented, however, that he does have difficulty with the utility rate increases as a result of other spending issues.

Councilmember Whalen voiced support for the motion and noted that many years ago, the City made the decision to be financed through its utility rates as opposed to a property tax. He stated that despite the fact that City residents are concerned regarding utility rate increases year after year, Mesa is still the least expensive community in the Valley in which to live. Councilmember Whalen stated that he is hopeful that the Financing for the Future Citizen Committee would be able to provide the Council with options relative to the manner in which the City operates and the services it currently provides.

Councilmember Griswold commented that last year, he was in Councilmember Rawles' position in that he voted in support of the fiscal budget, but was opposed to the utility rate increases. He stated that because Mesa is a fast growing community, it is imperative that there are sufficient funds available to ensure its expansion. He added that he looks forward to the upcoming discussion regarding the assessment of various City programs to determine what is or is not essential.

Vice Mayor Walters recognized that utility rate increases are always difficult for Mesa residents and invited individuals who wish to discuss possible budget cuts to meet with her and show her a constituency group for making such cuts. She acknowledged that she has received input from citizens who are angry at a decreased level of service in certain areas in the past few years. Vice Mayor Walters also stated that City employees did not receive a cost of living adjustment last year and that in her opinion, the proposed 2% increase is a modest raise. She added that she too would be willing to discuss Councilmember Thom and Councilmember Rawles' budget reduction proposals.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

12. Consider the following liquor license applications:

*a. JORGE CESAR DUARTE, AGENT

Person Transfer Beer & Wine Bar License for Desert Sands Golf Course, Inc., 1922 S. 74th Street. This is an existing business. This is a Person Transfer from Jorge Cesar Duarte, Agent for Desert Sands of Arizona Inc., 1922 S. 74th Street, Mesa. This license will transfer to the applicant. District #6.

*b. CHRISTINE LOUISE BLANK, AGENT

New Restaurant License for Nick-N-Willy's Pizza Restaurant, 1940 S. Val Vista Drive, Suite 106. This is an existing business. No previous liquor license at this location. District #2.

*c. TINA ROBERTS, INDIVIDUAL

New Restaurant License for Tio Chiles, 1155 S. Power Road, Suite 121. This is an existing business. No previous liquor license at this location. District #6.

13. Consider the following contracts:

*a. Two-year renewal of the supply contract for automotive brake parts as requested by Fleet Support Services.

The Purchasing Division recommends exercising the two-year renewal as follows:

Section I, primary contract, to be awarded to the original lowest overall bidder, Hall Brake Supply, for annual purchases estimated at \$115,000.00. To ensure continuity of supply, a secondary contract is recommended to the second lowest bidder, Fleet Pride, for annual purchases estimated at \$15,000.00.

Section II to the original lowest overall bidder, Fleet Pride, for annual purchases estimated at \$17,500.00. The combined award is then \$147,500.00 based on estimated annual purchases.

*b. Scanning Hardware for Development Services as requested by Information Services.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Transource Computers for a total of \$15,350.20.

*c. One easement-cleaning machine and trailer as requested by the Utilities Department.

The Purchasing Division recommends accepting the low bid by Terex Utilities West at \$21,996.99 including applicable sales tax.

*d. Excess Workers' Compensation Insurance as requested by the Human Resources Division.

The Purchasing Division recommends accepting the proposal from Marsh, USA for Excess Workers' Compensation coverage through Wexford Insurance at a first year premium of \$1,262,645 based on a self-insured retention of \$500,000 per claim.

- *e. One replacement ion chromatograph for the Utilities Compliance Lab as requested by the Utilities Department.

The Purchasing Division recommends accepting the bid by Dionex Corp. at \$59,521.70 including the premiere care service program option and Use tax. **(Sole Source)**.

- *f. Two vehicle-mounted message boards as requested by Transportation.

The Purchasing Division recommends authorizing purchase from State Contract with Ver-Mac, Inc. at \$14,097.60 including applicable use tax.

- *g. Document Management Hardware (Scanner and Server) for the Mesa Police Department as requested by Information Services.

The Purchasing Division recommends approving:

\$94,776.00 for server hardware from Hewlett Packard using the City's Intergovernmental Agreement with the State of Arizona to utilize the Western States Contracting Alliance contracts; and, \$26,079.13 for a scanner, first year maintenance and support from the State of Arizona contract with Transource Computers.

The combined award for the recommended purchases is \$120,855.13.

- *h. Three-year supply contract for police motorcycle maintenance and repair services as requested by the Police Department and Fleet Support Services.

The Purchasing Division recommends accepting the only proposal by Probity Cycle, Inc. at \$115,000.00 based on estimated annual purchases. (Single Response)

- *i. Three-year supply contract for portable radio batteries as requested by the Communications Division.

The Purchasing Division recommends accepting the low bids as follows:

Groups B and C to Battery Zone, Inc. at \$58,685.88; and Group A and D to Jan Comm. & Electronics Company at \$54,403.00.

The combined award is \$113,088.88 based on estimated annual purchases.

- *j. Three-year supply contract for slurry seal sand as requested by the Transportation Division.

The Purchasing Division recommends accepting the low bid by Mesa Materials, Inc. for Zones A and B at \$176,161.30 based on estimated annual requirements.

- k. 8th Street Pavement Rehabilitation (101 Freeway to Dobson Road) City of Mesa Project No. 01-841-005.

This project proposes to rehabilitate approximately one mile of asphalt pavement and install approximately 452 linear feet of water line.

Recommend award to low bidder, Nesbitt Contracting Co., Inc, in the amount of \$381,670.05 plus an additional \$38,167.00 (10% allowance for change orders) for a total award of \$419,837.05.

Mayor Hawker declared potential conflicts of interest on agenda items 13 k and 13 l and said he would refrain from discussion/participation in these items. He yielded the gavel to Vice Mayor Walters for action on these items.

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

Upon tabulation of votes, it showed:

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

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

- l. East Mesa Service Center Pump Test Pit and Hazmat Trailer Site. City of Mesa Project No. 01-32.

This project proposes to provide a fire pump test facility adjacent to the vehicle maintenance facility to fully test all fire truck pumps. In addition, this project will provide a permanent parking location for the City's hazardous material emergency response trailer currently stored at Fire Station 216.

Recommend award to low bidder, Weber Group, LC, in the amount of \$221,940.00 plus an additional \$22,194.00 (10% allowance for change orders) for a total award of \$244,134.00.

It was moved by Councilmember Thom, seconded by Councilmember Whalen, that the recommendation of staff be approved.

Upon tabulation of votes, it showed:

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

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- m. South Center Scene Shop, 200 South Center Street. City of Mesa Project No. 01-925-001.

This project will convert an existing vacant building at the South Center Street Complex into work areas to perform all forms of construction in support of the Mesa Arts Center programs.

Recommend award to low bidder, Layton Interior Specialist, in the amount of \$185,784.00 plus an additional \$18,578.00 (10% allowance for change orders) for a total award of \$204,362.00.

Mayor Hawker stated that this item was removed from the consent agenda at the request of Councilmember Rawles.

Councilmember Rawles expressed opposition to this item due to the fact he disagrees with the concept of spending \$94 million of public money to build the Mesa Arts Center. He added that because the construction of the scene shop is being funded through the Cultural Impact fees, he questioned whether such fees are consistent with ARS Section 9-463.05 related to the assessment of development fees by a municipality.

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

Discussion ensued relative to the fact that the project was not part of the originally awarded contract for the construction of the Mesa Arts Center; that the building on South Center Street is currently vacant and the project will renovate approximately one-third of the facility; and that a rehearsal room would also be included as part of the project.

Mayor Hawker questioned how many other contracts such as this would be coming before the Council in addition to the \$94.5 million that was approved for the construction of the Mesa Arts Center. He commented that although he agrees that the proposed building is the best location to perform construction for a variety of Mesa Arts Center programs, he did not realize that the Council would be asked to approve another large expenditure that is an integral part of the Center. Mayor Hawker added that he does not want to be "nickel and dimed to death" for more projects like this in the future.

In response to a question from Mayor Hawker, City Engineer Keith Nath clarified that to the best of his knowledge, other than the actual construction of the Mesa Arts Center, the scene shop is the only essential component of the Center yet to be approved. He explained that the Mesa Arts Center contract was awarded by the Council with a 5% allowance for change orders and noted that construction is currently on schedule and on budget.

In response to a question from Mayor Hawker, Arts and Cultural Director Gerry Fathauer advised that the Mesa Arts Center's ticketing costs would come out of its operating budget and that staff would address that issue with the Council in the next fiscal year.

Vice Mayor Walters requested that City Attorney Debbie Spinner respond to the comments made by Councilmember Rawles with regard to a municipality assessing cultural impact fees.

Councilmember Rawles referred to Section 9-463.05 (A) (“A municipality may assess development fees to offset costs to the municipality associated with providing necessary public services to a development.”) and stated that he does not personally believe that cultural facilities, while desirable within a community, qualify for “providing necessary public services.”

In response to Councilmember Rawles’ comments, Ms. Spinner explained that although “necessary public services” is not clearly defined within the statute, in her interpretation of the law, she would specifically refer to the Homebuilders Association versus the City of Scottsdale case wherein the Court acknowledged that the statute provides broad discretion to a City Council or a Legislative body in their interpretation of the statute. She stated the opinion that if the Council determined that a cultural impact fee is appropriate and a necessary public service, the Court would find its action consistent with the statute.

Vice Mayor Walters commented that in light of the fact that the Mesa Arts Center will be completed within the next year, it would not make sense to not support this agenda item.

Councilmember Jones expressed support for the motion and commented that regardless of what an individual may feel about the Mesa Arts Center, it was a voter-approved expenditure. He also acknowledged that the project has gone over budget and that private groups have raised funds to offset those costs.

Councilmember Thom disagreed with Councilmember Jones’ statement and commented that when Mesa voters approved the Quality of Life sales tax that went into effect in 1998, the Mesa Arts Center was merely one of 16 items listed in the publicity pamphlet and not a separate issue. She added that with regards to the scene shop, she finds it difficult to believe that with the size of the Mesa Arts Center, there is not sufficient room available that could be utilized for that purpose.

In response to Councilmember Jones’ comments, Councilmember Rawles stated that he did not have the opportunity as a Councilmember to vote on the Mesa Arts Center and is merely expressing his personal views about the propriety of the project.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

14. Introduction of the following ordinances and setting June 21, 2004 as the date of public hearing on these ordinances:

- *a. Modifying the terms and conditions for the sale of utilities.
- *b. Amending Title 9, Chapter 10 of the Mesa City Code modifying the Abandonment Fees charged for extinguishing public easements and vacating public rights-of-way.
- *c. Deleted.

- d. Modifying rates for the following utility services:
 - 1. Water & Irrigation
 - 2. Wastewater
 - 3. Natural Gas
 - 4. Solid Waste

Budget Director Jamie Warner provided the Council with a brief overview of this agenda item.

Marion Whipple, 1637 West Alcott, questioned whether the City of Mesa has applied for various grants through the Office of Homeland Security, monies which could be utilized to fund various budget items. He also encouraged the Council to carefully examine the proposed projects contained in the budget and assess their impact on the City.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that an ordinance modifying rates for Water and Irrigation, Wastewater, Natural Gas, and Solid Waste be introduced and that June 21, 2004 be set as the date of public hearing on the ordinance.

Councilmember Thom commented that the Council has used the utility rates as a "backdoor property tax." She reminded those individuals who spoke earlier about the utility rates being used in lieu of a property tax that Mesa voters approved a Charter change that "outlawed" the imposition of a City property tax without a vote of the people.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- *e. Modifying rate schedules for electric utility service to designate an Electric Energy Cost Adjustment Factor (EECAF) and designating October as a summer month for seasonally differentiated electrical utility rates.
- *f. Deleted.
- *g. Modifying the Court User Fee.
- *h. Modifying the Court Default Fee.
- i. Amending Title 5, Chapter 17, Section 5 and Section 6, including impact fee tables 6 and 7, of the Mesa City Code, relating to development impact fees.

Discussion ensued relative to the fact that the consultant's report contains an analysis of Mesa's development impact fees as compared to those of other Valley municipalities; that staff has not received any packets from Phoenix relative to their fees and that staff relies on the consultant to ascertain such information; and Phoenix's various impact fee zones.

It was moved by Councilmember Whalen, seconded by Vice Mayor Walters, that an ordinance amending Title 5, Chapter 17, Section 5 and Section 6, including impact fee tables 6 and 7, of the Mesa City Code, relating to development impact fees be introduced and that June 21, 2004 be set as the date of public hearing on the ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- *j. Repealing Chapter 11 of Title 2 Board of Appeals in its entirety, and adopting a new Chapter 11 of Title 2 entitled Building Board of Appeals.

15. Consider the following resolutions:

- *a. Authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Department of Transportation for a Grant Match Offer to fund 4.47% of the eligible project costs up to a maximum of \$17,917.00, for the design of a Runway Incursion Action Team (RIAT) project at Falcon Field Airport – Resolution No. 8248.
- *b. Adopting fees for the Speed Hump Program and implementing a fee for loaning City-owned traffic signal and streetlight equipment to contractors – Resolution No. 8249.
- *c. Modifying fees and charges for the Airport Division – Resolution No. 8250.
- *d. Modifying fees and charges for the Building Safety Division relating to the Building Board of Appeals – Resolution No. 8251.
- *e. Modifying fees and charges for the Building Safety Division relating to the Temporary Residential Fence Permits – Resolution No. 8252.
- f. Modifying fees and charges for the Arts and Cultural Division and the Mesa Arts Center – Resolution No. 8261.

Mayor Hawker advised that agenda items 15 f and 15g were removed from the consent agenda at the request of a citizen.

Mercedes Mercado-Ochoa, 724 North Vineyard Street, expressed a series of concerns regarding the proposed charges and stated the opinion that the City should offer free admission to the children of low-income families for various cultural activities. She also questioned the lack of diversity on the Council.

Discussion ensued relative to the fact that the Mesa Arts Center does offer a fee assistance program to those individuals who qualify financially and also that many sports and cultural programs are subsidized through scholarships.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that Resolution No. 8261 be adopted.

Carried unanimously.

- g. Modifying fees and charges for the Arts and Cultural Division and the Mesa Southwest Museum – Resolution No. 8262.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Resolution No. 8262 be adopted.

Carried unanimously.

- *h. Authorizing the City Manager to execute a Development Agreement for City Share Reimbursement between KW School LLC, an Arizona Limited Liability Company, and the City of Mesa for regional improvements that are being constructed in conjunction with the development of Noah Webster Basic School located at 7301 East Baseline Road – Resolution No. 8253.

- *i. Granting a Power Distribution Easement to Salt River Project at 4930 East Falcon Drive (Falcon Field) – Resolution No. 8254.

Due to remodeling at this location, this easement is necessary for the continuation of electrical service.

- *j. Extinguishing of a Temporary Drainage Easement at 6855 East Madero Avenue on Tract B, Superstition Point – Resolution No. 8255.

Due to the new development on this property, a new drainage easement has been dedicated. The Temporary Drainage Easement is no longer required.

- *k. Authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and the Maricopa County Superior Court, on behalf of the Maricopa County Adult Probation Department, to allow the City of Mesa to participate in the Community Work Service Program – Resolution No. 8256.

- *l. Deleted.

- *m. Executing Amendment No. 6 of the agreement between the City of Mesa and ATC for the operation of transit services – Resolution No. 8257.

- *n. Authorizing an Intergovernmental Agreement between the City of Mesa and Maricopa County for the FY 2004-05 operation of the Special Transportation Services Program (STS) – Resolution No. 8258.

- *o. Authorizing an Intergovernmental Agreement between the City of Mesa and the City of Phoenix for receipt of Federal Transit Administration funds (FTA) – Resolution No. 8259.

- *p. Granting a Power Distribution Easement to Salt River Project at 761 South Val Vista Drive – Resolution No. 8260.

This easement is necessary for new electrical service at this location to service the transformer and switching equipment.

16. Deleted.

17. Consider the following recommendation from the General Development Committee:

- *a. Approving Title 4, Chapter 9 of the Mesa City Code be amended to provide the City Manager or his designee specific discretionary authority to waive, reduce, or provide credits of certain permit fees.

18. Consider the following ordinances:

- *a. Deleted.
- *b. Item moved to 14j.
- *c. Deleted.
- *d. Deleted.
- e. **Z03-12 (District 5)** The 4400 block of East McLellan Road (south side). Located south and east of Greenfield Road and McKellips Road (1.76 ac ±). Rezone from R-3 to R-3 PAD. This case involves the development of an apartment complex. John Bellerose, owner; Randy Carter, Dreamcatchers Planning & Design, applicant – Ordinance No. 4200. **COMPANION ZONING CASE Z04-34.**

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

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. Compliance with all requirements of the Design Review Board.
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
6. Written notice be provided to future residents, and acknowledgment received that the project is within two miles of Falcon Field Airport.
7. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Ralph Pew, 10 West Main Street, an attorney representing the applicant, addressed the Council and provided a short synopsis of the case. He reported that the purpose of this zoning request is to change the land use designation from R-3 to R-3 PAD (Planned Area Development) in order to allow the applicant to plat and create a subdivision map and sell the four-plex units. He explained that in addition to complying with all aspects of the ordinance, the applicant has also enhanced the project through the inclusion of a ramada, a tot lot area and a swimming pool. Mr. Pew advised that the applicant is requesting that the site be subdivided into six four-plex units which would equate to about 13.3 units per acre. He stated that he anticipates the surrounding neighbors will address the Council this evening and outline their preference for a maximum of five four-plexes, which would equate to a density of 11.3 units per acre and therefore create an R-2 density which, in his opinion, would be unfair to the applicant.

Mr. Pew further commented that zoning case Z04-34 (agenda item 18f) is the companion case to this agenda item and relates to the rezoning of the property to the south of the above-mentioned property from R-3 to R1-9 for the development of a single residence lot. He said that in addition to the applicant assuring the neighbors that the property would be zoned R1-9, the applicant has also agreed to create a restrictive covenant on the lot that would benefit the property owners to the south, William and Paula Demarbiex.

In response to a question from Mayor Hawker, Planning Director John Wesley clarified that staff and the Planning and Zoning Board recommend approval of the case as outlined in staff's report. He added that each case is independent and could be handled separately.

Mayor Hawker advised that Jessica Valdez, 4425 East Halifax and William Demarbiex, 4450 East Hobart Street, submitted speaker cards indicating their opposition to the case, but did not wish to address the Council.

Paula Demarbiex, 4450 East Hobart Street, a resident in the area, expressed a series of concerns regarding the case. She stated the opinion that the applicant's plan to build individually-owned four-plexes does not comply with the Codes and ordinances of the City of Mesa and she is disappointed that the applicant finds it necessary to add a sixth building on the site plan. She also commented that although a private deed restriction is a great idea in theory, if the owner forgets to include the deed restriction at any point thereafter, the restriction could be lost forever. She suggested that a declaration be recorded that would run with the land and added that it be approved and recorded before the zoning is approved.

Mr. Pew commented that when the case first came to the Council, there were many areas of concern such as setbacks, turning radiuses, parking and the necessity to create a single-family lot that would act as a buffer between the residents to the south of the project. He noted that since that time, the applicant has made numerous changes to the site plan in an attempt to resolve those issues. Mr. Pew stated that if the Council elected to deny the case this evening, what would remain is an L-shaped piece of property zoned R-3 that would extend down to the Demarbiex's backyard. He explained that the applicant would then design an apartment project, as opposed to the individually designed four-plexes, and seek Site Plan approval from the Design Review Board. He stated the opinion that the current project, with its low-end density, is a more appropriate design, has a quality elevation, contains the innovative feature of basements in the units, and does not intrude upon the neighborhood.

It was moved by Councilmember Whalen, seconded by Councilmember Rawles, that Zoning Case No. Z03-12 be approved.

In response to a question from Vice Mayor Walters, Mr. Pew clarified that with regard to zoning case Z04-34, the applicant would be willing to make a declaration on the property rather than a restrictive covenant as suggested by the Demarbiexs.

Vice Mayor Walters expressed support for the motion and thanked the neighbors for their participation throughout this process. She commented that with regard to Z04-34, she is pleased that the issue regarding rezoning from R-3 to R1-9 has been addressed and noted that that was necessary in order for her to be comfortable with the case. Vice Mayor Walters also stated that although she understands the neighbors' concerns regarding the project, in her opinion, it is a quality project and one of the better-looking site plans the Council has seen in quite sometime.

Councilmember Griswold expressed support for zoning case Z04-34 and rezoning the property from R-3 to R1-9 to ensure the development of a single-residence lot. He noted, however, that he is opposed to zoning case Z03-12.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4200 adopted.

- f. **Z04-34 (District 5)** The 4400 block of East Hannibal Street (north side). Located south and east of Greenfield Road and McKellips Road (0.26± ac). Rezone from R-3 to R1-9. This case involves the development of a single-residence lot. John Bellerose, owner; Randy Carter, Dreamcatchers Planning & Design, applicant – Ordinance No. 4201. **COMPANION ZONING CASE Z03-12.**

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan 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 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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variances outlined in the staff report.
6. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that Zoning Case No. Z04-34 be approved.

Carried unanimously.

- *g. **Z03-59 (District 1)** The 400 block of North Dobson Road (west side). Located north and west of University Drive and Dobson Road (2.18 ac ±). Site Plan Modification. The case involves the development of office buildings. Bryan Faith, owner; John Eden, Eden Architects, applicant – Ordinance No. 4194.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
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. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit or at the time of the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Design Review Board.
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *h. **Z03-64 (District 3)** Northwest corner of Sycamore and Main Street (14.46 ac.). Rezone from C-2 and C-3 to C-2 BIZ and C-3 BIZ and Site Plan Modification. This request is for the development of a bus/light rail transfer lot and park-and-ride facility to serve the Mesa light rail station and to reserve a site for future Transit Oriented Development (TOD). Judith A. Klein, Rising Sun, LLC., owner; Jeff Martin, City of Mesa, applicant. **CONTINUED FROM THE MAY 3, 2004 AND MAY 17, 2004 CITY COUNCIL MEETINGS. (CONTNUED TO THE JULY 6, 2004 COUNCIL MEETING).**

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted.
2. All street improvements and perimeter landscaping to be installed in the first phase of construction.
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 City development codes and regulations.
5. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
6. Compliance with all requirements of the Design Review Board.

7. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
8. Transit oriented development is encouraged for the 3.67-acre lot.

- *i. **Z04-01 (District 6)** Northeast and northwest corners of Ellsworth Road and Germann Road (320 ac.). Rezone from R1-43 to M-1 and M-1 (conceptual C-2). (Options A and B) or: Rezone from R1-43 to M-1 and PEP and M-1 (conceptual C-2) (Option E). This request is to bring zoning into conformance with Mesa 2025 General Plan. Various owners; Wayne Balmer, Project Manager WGAA, applicant. **CONTINUED FROM THE MAY 3, 2004 AND MAY 17, 2004 CITY COUNCIL MEETINGS. (CONTINUED TO THE JUNE 21, 2004 COUNCIL MEETING.)**

P&Z Recommendation: Approval with conditions (Vote: Passed 5-0-2, Finter and Adams absent).

OPTION A

1. Compliance with all requirements of the Mesa Zoning Ordinance and land development regulations. This includes (but is not limited to) the following:
 - a. Provision of all required infrastructure including, but not limited to, street, water, sewer, fire protection and other improvements at the time of development.
 - b. Recordation of avigation easements, overflight easements and overflight disclosure statements with all subdivision plats approved and/or building permits issued.
 - c. Recordation of Covenants, Conditions and Restrictions (CC&R's) to address land use, property maintenance, landscaping, etc., with any new subdivision plats approved.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of the development plans for all uses proposed for the property. Site Plan Review documentation may include, but is not limited to, presentation of a citizen participation plan, exhibits detailing the proposed land use(s), site plans, design guidelines, landscape plans, and building elevations.

Note: Items 1 and 2 apply to both the properties on the east and west sides of Ellsworth Road. Conditions 3 through 10 apply to the 160 acres on the west side of Ellsworth Road only.

3. No vehicular access to South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) from the property to either the north or east.
4. Completion of the pavement of the east half of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) in conjunction with development of the property to the east. In addition to the right-of-way needed to complete South 88th Street, a fifteen-foot (15') **privately owned tract**, to enhance the area to be landscaped, will also be required.
5. Installation of an eight-foot decorative masonry wall on the east side of the future **privately owned tract** on the east side of South 88th Street between Germann

Road and East Woodland Avenue (adjacent to the Queens Park subdivision) as part of the development of the property to the east. Landscaping shall be installed in the South 88th Street right-of-way and the **privately owned tract**, east of the completed street and west of the wall, per City Code at the time of development. **The property owner to the east** will maintain the landscaping in both the dedicated right-of-way and **privately owned tract**, once completed. The designs for both the decorative masonry wall and landscaping in the right-of-way and **the tract** will be reviewed and approved by the Design Review Board prior to construction.

6. All buildings constructed within 200 feet of the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to Queens Park subdivision) to be limited to 30 feet in height. In addition, a 40-foot building setback would be required for all future buildings from the new property line on South 88th Street.
7. No open storage of construction or other materials, heavy equipment or commercial vehicles (other than standard passenger vehicles) will be allowed on the western 200 feet of those properties on the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision), nor on those properties on the north side of Germann Road to a depth of 200 feet between South 88th Street and Ellsworth Road.
8. Buildings constructed within 200 feet of Germann Road between South 88th Street and Ellsworth Road to be limited to 30 feet in height. In addition, a 30-foot building setback would be required for all future buildings from the new property line on Germann Road.
9. Site Plan Review requests, rezoning requests and/or subdivision plats located west of Ellsworth Road should, if possible, be at least 10 acres in size, pursuant to Resolution No. 7838.
10. When development is proposed on the area identified in conditions 6, 7 and 8 above, the applicants will be asked to consider the proximity of the homes to the west and the south in the project design process in order to identify and incorporate proposed compatibility measures. Examples of compatibility measures might include: locating future storm water retention basins on the west and south sides of the property, no bay doors facing west adjacent to 88th Street and south adjacent to Germann Road, placing loading docks on the east or north sides rather than the west or south sides of the buildings, locating compressors and air conditioning units in noise attenuated surroundings, etc.

P&Z Recommendation: Approval with conditions (Vote: Passed 5-0-2, Finter and Adams absent).

OPTION B (CHANGES ARE IN BOLD)

1. Compliance with all requirements of the Mesa Zoning Ordinance and land development regulations. This includes (but is not limited to) the following:
 - a. Provision of all required infrastructure including, but not limited to, street, water, sewer, fire protection and other improvements at the time of development.

- b. Recordation of avigation easements, overflight easements and overflight disclosure statements with all subdivision plats approved and/or building permits issued.
 - c. Recordation of Covenants, Conditions and Restrictions (CC&R's) to address land use, property maintenance, landscaping, etc., with any new subdivision plats approved.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of the development plans for all uses proposed for the property. Site Plan Review documentation may include, but is not limited to, presentation of a citizen participation plan, exhibits detailing the proposed land use(s), site plans, design guidelines, landscape plans, and building elevations.

Note: Items 1 and 2 apply to both the properties on the east and west sides of Ellsworth Road. Conditions 3 through 10 apply to the 160 acres on the west side of Ellsworth Road only.

3. No vehicular access to South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) from the property to either the north or east.
4. Completion of the pavement of the east half of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) in conjunction with of the development of the property to the east. In addition to the right-of-way needed to complete South 88th Street, a fifteen-foot (15') **privately owned tract**, to enhance the area to be landscaped, will also be required.
5. Installation of an eight-foot decorative masonry wall on the east side of the future **privately owned tract**, on the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) as part of the development of the property to the east. Landscaping shall be installed in the South 88th Street right-of-way and the **privately owned tract**, east of the completed street and west of the wall, per City Code at the time of development. **The property owner to the east** will maintain the landscaping in both the dedicated right-of-way and **privately owned tract**, once completed. The designs for both the decorative masonry wall and landscaping in the right-of-way and **the tract** will be reviewed and approved by the Design Review Board prior to construction.
6. All buildings constructed within 200 feet of the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to Queens Park subdivision) to be limited to 30 feet in height. In addition, a 40-foot building setback would be required for all future buildings from the new property line on South 88th Street.
7. No open storage of construction or other materials, heavy equipment or commercial vehicles (other than standard passenger vehicles) will be allowed on the western 200 feet of those properties on the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision), nor on those properties on the north side of Germann Road to a depth of 200 feet between South 88th Street and Ellsworth Road.
8. Buildings constructed within 200 feet of Germann Road between South 88th Street and Ellsworth Road to be limited to 30 feet in height. In addition, a 30-foot

- building setback would be required for all future buildings from the new property line on Germann Road.
9. Site Plan Review requests, rezoning requests and/or subdivision plats located west of Ellsworth Road should, if possible, be at least 10 acres in size, pursuant to Resolution No. 7838.
 10. When development is proposed on the area identified in conditions 6, 7 and 8 above, the applicants will be asked to consider the proximity of the homes to the west and the south in the project design process in order to identify and incorporate proposed compatibility measures. Examples of compatibility measures might include: locating future storm water retention basins on the west and south sides of the property, no bay doors facing west adjacent to 88th Street and south adjacent to Germann Road, placing loading docks on the east or north sides rather than the west or south sides of the buildings, locating compressors and air conditioning units in noise attenuated surroundings, etc.

OPTION E

1. Compliance with all requirements of the Mesa Zoning Ordinance and land development regulations. This includes (but is not limited to) the following:
 - a. Provision of all required infrastructure including, but not limited to, street, water, sewer, fire protection and other improvements at the time of development.
 - b. Recordation of avigation easements, overflight easements and overflight disclosure statements with all subdivision plats approved and/or building permits issued.
 - c. Recordation of Covenants, Conditions and Restrictions (CC&R's) to address land use, property maintenance, landscaping, etc., with any new subdivision plats approved.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of the development plans for all uses proposed for the property. Site Plan Review documentation may include, but is not limited to, presentation of a citizen participation plan, exhibits detailing the proposed land use(s), site plans, design guidelines, landscape plans, and building elevations.

Note: Items 1 and 2 apply to both the properties on the east and west sides of Ellsworth Road. Conditions 3 through 10 apply to the 160 acres on the west side of Ellsworth Road only.

3. No vehicular access to South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) from the property to either the north or east.
4. Completion of the pavement of the east half of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision) in conjunction with development of the property to the east. In addition to the right-of-way needed to complete South 88th Street, a fifteen-foot (15') **privately owned tract**, to enhance the area to be landscaped, will also be required.
5. Installation of an eight-foot decorative masonry wall on the east side of the future **privately owned tract** on the east side of South 88th Street between Germann

Road and East Woodland Avenue (adjacent to the Queens Park subdivision) as part of the development of the property to the east. Landscaping shall be installed in the South 88th Street right-of-way and the **privately owned tract**, east of the completed street and west of the wall, per City Code at the time of development. **The property owner to the east** will maintain the landscaping in both the dedicated right-of-way and **privately owned tract**, once completed. The designs for both the decorative masonry wall and landscaping in the right-of-way and **the tract** will be reviewed and approved by the Design Review Board prior to construction.

6. All buildings constructed within 200 feet of the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to Queens Park subdivision) to be limited to 30 feet in height. In addition, a 40-foot building setback would be required for all future buildings from the new property line on South 88th Street.
 7. No open storage of construction or other materials, heavy equipment or commercial vehicles (other than standard passenger vehicles) will be allowed on the western 200 feet of those properties on the east side of South 88th Street between Germann Road and East Woodland Avenue (adjacent to the Queens Park subdivision), nor on those properties on the north side of Germann Road to a depth of 200 feet between South 88th Street and Ellsworth Road.
 8. Buildings constructed within 200 feet of Germann Road between South 88th Street and Ellsworth Road to be limited to 30 feet in height. In addition, a 30-foot building setback would be required for all future buildings from the new property line on Germann Road.
 9. Site Plan Review requests, rezoning requests and/or subdivision plats located west of Ellsworth Road should, if possible, be at least 10 acres in size, pursuant to Resolution No. 7838.
 10. When development is proposed on the area identified in conditions 6, 7 and 8 above, the applicants will be asked to consider the proximity of the homes to the west and the south in the project design process in order to identify and incorporate proposed compatibility measures. Examples of compatibility measures might include: locating future storm water retention basins on the west and south sides of the property, no bay doors facing west adjacent to 88th Street and south adjacent to Germann Road, placing loading docks on the east or north sides rather than the west or south sides of the buildings, locating compressors and air conditioning units in noise attenuated surroundings, etc.
- *j. **Z04-28 (District 5)** 4646 East Main Street. Located north and east of Greenfield Road and Main Street (3.5 ac. ±). Rezone from C-2 to C-3. This request is to allow for outdoor sales/display associated with an existing business. Lisa Kazan, owner; David Skogebo, applicant – Ordinance No. 4195.

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

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. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

4. Obtainment of either a Variance or Substantial Conformance Improvement Permit (SCIP) from the Board of Adjustment or the Zoning Administrator for all code deviations.
5. Non-conforming and/or prohibited signs shall be brought into conformance prior to the issuance of a building permit.
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *k. **Z04-29 (District 5)** 3941 North Higley Road. Located north and east of Thomas Road and Higley Road (2.88 ac. ±). Site Plan Modification. This request is for the expansion of an existing building. Gary & Roger Understiller, owners; John Manross, applicant – Ordinance No. 4196.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, (without guarantee of lot yield, building count, lot coverage) 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. Obtainment of either a Variance or Substantial Conformance Improvement Permit (SCIP) from the Board of Adjustment or the Zoning Administrator for all code deviations.
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.
6. Review and approval by the Planning and Zoning Board, City Council, and Design Review Board of future development plans.
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.

- *l. **Z04-30 (District 6)** 2941 South Ellsworth Road. Located south and east of Guadalupe Road and Ellsworth Road (6.64 ac. ±). Rezone from C-2 DMP to C-2 PAD – DMP. This request is for the development of office buildings. Kelly Hogart, owner; Craig Cote, UTAZ Development, applicant – Ordinance No. 4197.

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

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. 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).
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*m. **Z04-31 (District 6)** The 7200 block of East Southern Avenue (north side). Located north of Southern Avenue and west of Sossaman Road (2.4 ac ±). Site Plan Review. This case involves the development of an Arizona Federal Credit Union. Ann Burns, owner; David Jaeckels, applicant – Ordinance No. 4198.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted except as noted below.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the 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 or at the time of the City's request for dedication, whichever comes first.
5. Compliance with all requirements of the Design Review Board.
6. Review and approval of a Special Use Permit by the Board of Adjustment for drive-through windows and outdoor teller facilities.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*n. **Z04-33 (District 6)** Northeast corner and northwest corner of Baseline Road and Crismon Road (45± ac.). Rezone from R1-43 to C-2. This case involves the development of a multi-use commercial development. Stuart L Rider, Rider Land & Development LLC, applicant – Ordinance No. 4199.

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

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 City development codes and regulations.
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 perimeter landscaping to be installed in the first phase of construction for any development located within the property located

- northeast of the Crismon Road and Baseline Road intersection. The property northeast of Crismon Road is to be considered independently of the property northwest of Crismon Road.
6. All street improvements and perimeter landscaping to be installed in the first phase of construction for any development located within the property located northwest of the Crismon Road and Baseline Road intersection. The property northwest of Crismon Road is to be considered independently of the property northeast of Crismon Road.
 7. Compliance with all requirements of the Subdivision Technical Review Committee.
 8. Compliance with all requirements of the Design Review Board, including the review and approval of the design and location of a decorative, 8-foot high perimeter wall or barrier along the eastern property line of the northeast portion of the proposed development. Perimeter wall should not extend over 250 linear feet without an appropriate degree of horizontal variation (minimum 3' variation from linear orientation).
 9. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps and the Farmer's Market Event area (outdoor activity accessory to a commercial use).
 10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

19. Consider the following subdivision plats:

- *a. "LA FORTINA", – (Council District 6) – 900 block of South Crismon Road (west side) located north and west of Southern Avenue and Crismon Road. 182 R1-6 PAD single residence lots (33.24 ac) D.R. Horton, Inc., a Delaware Corporation, owner; Infinity Engineering Services, Ltd., engineer.
- *b. "SUMMERLIN VILLAGE", – (Council District 5) – 1300 block of South 58th Street (east side) located south and west of Southern Avenue and Superstition Springs Boulevard. 136 R1-6 PAD single residence lots (19.60 ac) KB Home Phoenix Inc., an Arizona Corporation, owner; Hoskin Ryan Consultants, Inc., engineer.
- *c. "GILA RIVER RANCHES UNIT 1", – (Council District 6) – 4600-4900 blocks of South Mountain Road (east side) located south and east of Warner Road and Mountain Road. 327 R1-6 PAD DMP, R1-6 DMP and R1-7 DMP single residence lots (109.29 ac) Lancelot Gila, LLC, Randall L. Kirsch, trustee; CMX, LLC, engineer.
- *d. "REPLAT OF LOTS 1 & 2 OF CRISMON BUSINESS PARK", – (Council District 6) – 1300-1400 blocks of South Crismon Road (east side) located south and east of Southern Avenue and Crismon Road. 2 C-2 commercial lots (83.82 ac) V.J. Crismon, L.L.C., Vance H. Marshall, Member, and Signal Butte 114 LLC, Michael Johnson, Managing Member, owners; AMEC Infrastructure, Inc., engineer.

20. Items from citizens present.

There were no items from citizens present.

21. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:35 p.m.

KENO HAWKER, MAYOR

ATTEST:

BARBARA JONES, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 7th day of June 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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Attachment