

COUNCIL MINUTES

September 9, 2002

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on September 9, 2002 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner
Barbara Jones

Invocation by Reverend Kelley Jaroff, Church of Scientology.

Pledge of Allegiance was led by Boy Scout Jay Abbott of Mountain View High School.

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.

Mayor Hawker and City Clerk Barbara Jones provided an update regarding upcoming elections:

1. September 10, 2002 Election – Proposition 404.

Ms. Jones advised the viewing audience that the State's Primary Election would be held the following day. She referred to a sample ballot on display in the Council Chambers and demonstrated that the City's Proposition 404 concerning the Multipurpose Facility project will be located on the back page of all Mesa ballots. She reported that the polls will be open from 6:00 a.m. to 7:00 p.m.; explained numerous methods available to voters to learn their polling location; and urged all voters to exercise their right to vote.

2. November 5, 2002 Election – General Plan.

Ms. Jones explained that the State's General Election will be conducted on November 5, 2002 and commented on the fact that the City's updated General Plan (Proposition 405) will be on the ballot. She also noted that early voting begins October 3, 2002 and stated that voters who requested an early ballot for the State Primary Election will automatically be sent an early ballot for the General Election. She added that the voter registration deadline to be eligible to vote in the General Election is October 7, 2002.

3. Mesa Legislative Districts and Candidates.

Mayor Hawker discussed the fact that Legislative and Congressional District boundaries have been redrawn to reflect the 2000 Census. He referred to a map on display that depicted boundary lines for Legislative Districts 17, 18, 19, 21 and 22 within the City limits.

4. Mesa Congressional Districts and Candidates.

Mayor Hawker commented that Arizona now has seven Congressional Districts and referred to a map on display in the Council Chambers that depicted boundary lines for Districts 5 and 6 within the City limits.

Carol McCormack, Mesa United Way President/CPO, addressed the Council and reported that during the recent annual United Way campaign, City employees contributed in excess of \$300,000 to various United Way charities. She stated that when compared to other City employees' United Way campaigns, the Mesa employees' campaign was ranked one of the most generous in the nation. Ms. McCormack voiced appreciation to City employees and presented City Manager Mike Hutchinson with a commemorative plaque.

Mr. Hutchinson commended City employees for their commitment and contributions to the community.

1. Consider all consent agenda items.

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

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

Carried unanimously.

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

Minutes of the August 26 and 29, 2002 Council Meetings were approved.

3. Conduct a public hearing regarding the appeal of the Design Review Board decision on case DR02-40 "Watermill Express".

Planning Director Frank Mizner addressed the Council and reported that there have been few Design Review Board appeal cases brought before the City Council in the last ten years. He provided a brief overview concerning the design review process and this case, which involves a water vending facility. He reported that the applicant proposes to construct a water vending facility, which is designed to look like a windmill, at the northwest corner of the existing retail shopping center on the southeast corner of Southern Avenue and Lesueur. He further reported that the Design Review Board considered this case and recommends denial and that staff also recommends denial because the proposed facility does not meet the intent of the Design

Guidelines. He explained that the proposed facility does not match the overall retail center in terms of color, building materials and design.

Mr. Mizner outlined the options available to the Council. He also commented on a previous Design Review Board appeal case that came before the Council in 2000 and discussed the fact that at that time, City Attorney Neal Beets advised the Council that their review of the case was limited to the Design Review Board case record, and that unless the Council determined that the Board erred in some manner, it was incumbent upon the Council to uphold the Board's decision. Mr. Mizner further advised that City Attorney Debbie Spinner now opines that because State law does not prescribe the Council's role concerning appeals of Design Review cases as it does Board of Adjustment cases, the Council is unrestricted with respect to considering all aspects of the case and hearing from the applicant.

Marcus Tork, 2310 W. Mission Lane, #6, Phoenix, the applicant, addressed the Council and provided brief background information concerning Watermill Express. He advised that currently, there are 82 Watermill Express locations in the Valley, including three in the City. He noted that each kiosk serves approximately 700 to 1000 nearby families and is serviced and sanitized on a daily basis. He stated that although the proposed kiosk is defined as a vending machine in the case commentary, it fits the definition of a building in the City's Zoning ordinance and is subject to the building permit process. He added that he prefers that the proposed water-vending kiosk be considered a building and not a vending machine.

Mr. Tork advised that although the Watermill Express parent company does not allow the structural design of the kiosks to be altered, paint and roof colors are discretionary and the proposal does provide that paint and roof colors will be matched to the existing shopping center. He voiced the opinion that only two of the existing four buildings at the shopping center have a common roof design and requested that leeway be extended with respect to roof design. He also stated that the proposal provides for landscaping directly in front of the kiosk as well as enhanced landscaping along the street.

Councilmember Thom said that she has seen one of the Watermill Express kiosks and voiced the opinion that it is an attractive building. She stated support for the proposed project.

Discussion ensued regarding whether the proposed project would be required to have fire sprinklers; and the fact that if this case is approved, fire sprinklers and other building code issues would be addressed in conjunction with the building permit process.

Mr. Mizner stated that when this proposal was initially presented to the City, there was debate among staff concerning whether it should be classified as a vending machine or a building. He outlined requirements relative to vending machines including the fact that vending machines must be located adjacent to a major building and screened in some manner. He noted that the applicant has requested that this project be classified as a building and reiterated that the project does not meet the Design Guidelines. He stated that although there are 82 of these facilities throughout the Valley, none are in Scottsdale, Tempe or Gilbert and opined that these kiosks do not meet the design standards in these communities. He added that the three existing Watermill Express kiosks in the City are in retail centers that existed prior to enactment of the City's current Design Guidelines.

City Attorney Debbie Spinner outlined the Council's options concerning this case and stated that the Council's decision should be based on whether or not this proposed project complies with the intent of the Design Guidelines.

Councilmember Walters commented that during recent years, the City has strived to improve the quality of its built environment and voiced the opinion that the proposed project is inconsistent with the City's new Design Guidelines.

It was moved by Councilmember Walters, seconded by Councilmember Griswold, that the decision of the Design Review Board denying case DR02-40 "Watermill Express", be upheld.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

4. Consider the following contracts:

- *a. One new copier for the East Mesa Regional Library.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Minolta Corporation at \$11,555.81 including applicable use tax.

- *b. Repair of Aerial Ladder Truck as requested by the Fire Department.

The Purchasing Division recommends authorizing repairs estimated at \$35,813.73, to be performed by the original equipment manufacturer, Pierce Manufacturing. **(Sole Source)**.

- *c. Two-year renewal of the supply contract for helicopter engine parts and repair as requested by the Police Department.

The Purchasing Division recommends exercising the two-year renewal option with the original low bidder, Air Services Intl., LLC, for annual purchase estimated at \$325,000.00.

- *d. Library SelfCheck System Hardware for the East Mesa Regional Library as requested by the Information Services Division (ISD).

The Purchasing Division recommends accepting the only bid from 3M Safety and Security Systems Division, for a total of \$110,024.18, including applicable sales tax. **(Sole Source)**.

- *e. Three-Year Tax-Exempt Lease for Computer-Aided Dispatch (CAD) Hardware for the Police Department, as requested by the Information Services Division (ISD).

The Purchasing Division recommends approval of a three-year tax-exempt lease, totaling \$351,047.27, for the purchase of Computer-Aided Dispatch (CAD) Hardware.

- *f. Security Command Console as requested by the Police Department.

The Purchasing Division recommends accepting the low bid by Burst Communications at \$14,498.02 including applicable sales tax.

- *g. Two-year supply contracts for Spanish language books and related materials, as requested by the Mesa Public Library.

The Purchasing Division concurs with the Evaluation Team's recommendation to award a primary contract to Libros sin Fronteras for annual purchases estimated at \$11,000. A secondary contract to Follett Media Distribution for annual purchases estimated at \$7,700 is also recommended. The combined award is then \$18,700 based on estimated annual purchases.

- *h. Thermoplastic Pavement Marking Equipment requested by Transportation.

The Purchasing Division endorses the evaluation team's recommendation to award to TMT Pathway, L.L.C, at \$37,816.00 plus 5.6% use tax of \$2,117.70 for a total of \$39,933.70.

- *i. Two-year supply contract for traffic signal controller units for warehouse inventory to be used by the Transportation Division.

The Purchasing Division recommends accepting the only bid by Econolite Control Products, Inc. at \$74,225.03 based on estimated annual requirements. **(Single Responding Bidder)**.

- j. Desert Wells Zone 24" Waterline Recker Rd, from McDowell to Adobe, and Adobe Rd, Recker to Power. City of Mesa Project No. 02-025.

This project will install 18,200 linear feet of 24-inch water transmission main along Recker Road from McDowell to Adobe Road, and along Adobe Road from Recker to Power Road. This main will connect to a 24-inch line being installed as part of the McDowell and Recker Road Improvement project that is currently under construction.

Recommend award to low bidder, SJL Construction Inc., in the amount of \$1,849,760.00 plus an additional \$184,976.00 (10% allowance for change orders) for a total award of \$2,034,736.00.

Mayor Hawker declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

Mayor Hawker yielded the gavel to Vice Mayor Kavanaugh for action on this item.

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

Upon tabulation of votes, it showed:

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

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

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

- *k. Re-Coat Foam Roof of Fleet Support Building. City of Mesa Project No. 02-75.

This project will re-coat the foam roof (approximately 24,000 s.f.) on the fleet support building as a part of on-going facility maintenance of City owned buildings. This building is located at 310 East 6th Street in the Sixth Street Service Center.

Recommend award to low bidder, K & M Roofing, Inc., in the amount of \$23,600.00 plus an additional \$2,360.00 (10% allowance for change orders) for a total award of \$25,960.00.

5. Introduction of the following ordinances and setting September 23, 2002 as the date of public hearing on these ordinances:

- *a. **Z02-26** The northwest corner of Brown and Ellsworth Roads (12.17 ac). Site Plan Modification. This case involves the development of a pharmacy. The Gustine Company, owner; Withey, Anderson, & Morris, P.L.C., applicant.
- *b. **Z02-29** The northwest corner of McLellan Road and Grand (.75 +/- acre). Modification of the Council approved ordinance. This request is to delete condition 3 of zoning case Z87-18 pertaining to the retention basin.
- *c. **Z02-30** 361 South Lindsay Road, Suite 3 (2,200 s.f. +/-). Council Use Permit. This request is to seek approval for a pawn shop in a commercial zoning district.
- d. Reducing the speed limit from 35 mph to 30 mph on First Avenue from Country Club Drive to Mesa Drive; reducing the speed limit from 50 mph to 45 mph on Ellsworth Road from US 60 to Guadalupe Road, on Ellsworth Road from McDowell Road to Princess Drive, on Higley Road from Brown Road to a point 150 feet north of Thomas Road, on McDowell Road from Power Road to the east City limits, on McKellips Road from 32nd Street to the east City limits, on Power Road from McKellips Road to the north City limits, on Sossaman Road from Guadalupe Road to Elliot Road, and on Usery Pass Road from McDowell Road to the north City limits; prohibiting parking on the east side of Pasadena from a point 280 feet south of Southern Avenue to a point 380 feet south of Southern Avenue, on Virginia Street from a point 295 feet west of Greenfield Road to a point 245 feet east of Greenfield Road, on Raffriver Street from Thomas Road to a point 86 feet north of Sierra Morena Street, and on the west side of Olive from Broadway Road to a point 50 feet south of Broadway Road; and removing McLellan Road between

Inca Street and Arboleda from the City Code section 10-3-17 "Special Stops Required", as recommended by the Transportation Advisory Board.

Councilmember Thom voiced concerns relative to reducing speed limits in rural areas of the City.

Transportation Director Ron Krosting addressed the Council and explained that as rural areas of the City develop and traffic volumes and conflicts increase on arterial streets, reducing speed limits is a necessary part of the growth process. He added that another factor dictating reduced arterial speed limits in northeastern areas of the City is the fact that the Red Mountain Freeway will be extended out to Higley Road within the next several months and adjacent arterial streets are expected to see increased traffic volumes. He further reported that the proposed recommendations are brought forward from the Transportation Advisory Board (TAB), that staff evaluated the proposed speed limit decreases at the request of the TAB and thereafter recommended the reductions to the Board.

In response to a question from Councilmember Thom relative to the correlation between speed limits and traffic accidents, Mr. Krosting reported that although it is difficult to quantify accident frequency with speed limits, accidents that occur at higher speed limits typically produce more fatalities and severe injuries.

Councilmember Thom stated opposition to the proposed speed limit reductions on Ellsworth Road from US 60 to Guadalupe Road; and on Sossaman Road from Guadalupe Road to Elliot Road.

It was moved by Councilmember Thom to delete the proposed speed limit reductions on Ellsworth Road and Sossaman Road.

In response to a question from Councilmember Jones regarding the proposed speed limit reduction on 1st Avenue, Mr. Krosting reported that this proposed reduction is part of the Downtown Concept Plan and the Transportation Plan and was also considered by the TAB. He advised that what is also being proposed in conjunction with the reduced speed limit on 1st Avenue is the conversion of parallel parking to angle parking, and a reduction from two lanes to one lane. He explained that it is the desire of the Board to conduct a trial run of these changes on 1st Avenue between Macdonald and Serrine for the purpose of providing additional on-street parking for the Mesa Arts Center and the Aquatics Center in the future. He added that these proposed changes are consistent with transitioning 1st Avenue and 1st Street into pedestrian friendly streets.

Mayor Hawker declared the Motion died for lack of a Second.

Councilmember Walters said that she would support the separate introduction of the proposed speed limit reductions on Ellsworth Road and Sossaman Road.

It was moved by Councilmember Thom, seconded by Councilmember Walters, that the proposed speed limit reductions on Ellsworth Road from US 60 to Guadalupe Road and on Sossaman Road from Guadalupe Road to Elliot Road be considered introduced as a separate agenda item; and that the remaining proposed traffic changes be maintained for introduction as written.

Discussion ensued regarding the fact that the proposed speed limit reductions on McKellips Road from 32nd Street east to the City limits is due to anticipated increased traffic volumes resulting from extension of the Red Mountain Freeway eastward, and the fact that staff will begin implementing the proposed parking changes on 1st Avenue 30 days after the introduced Ordinance is approved by the Council.

In response to concerns voiced by Councilmember Jones regarding the fact that although the speed limit on 1st Avenue would be reduced from Country Club Drive to Mesa Drive, parallel parking would remain in place except from Macdonald to Sirrine, Mr. Krosting said that the proposed section of angle parking would be implemented as a trial and that staff intends to evaluate this entire section in the future based on the trial results.

Councilmember Griswold noted that a large number of the proposed speed limit reductions are in District 5. He commented on the increased traffic the Red Mountain Freeway will bring to the area and voiced reluctant support for the proposed speed limit reductions.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

6. Consider the following resolutions:

- *a. Extinguishing a portion of a non-vehicular access easement at 1316 East Southern Avenue – Resolution No. 7899.

This portion of the easement is no longer required.
- *b. Extinguishing all easements dedicated on the plat of LOMA VERDE in the 1500 block of North Mesa Drive – Resolution No. 7900.

These easements are no longer required and conflict with the easements on the new amended plat.
- *c. Granting a power distribution easement to Salt River Project at the South Water Reclamation Plant site – Resolution No. 7901.

This easement is to provide power to a communications tower on the site.
- *d. Granting a power distribution easement to Salt River Project along Brown Road at Red Mountain Park – Resolution No. 7902.

This easement will enable SRP to improve it reliability in the area.
- *e. Granting an underground power easement at 5133 E. Roadrunner Drive – Resolution No. 7903.

This easement is necessary to provide electric service to the building.

- *f. Deleted.
- *g. Authorizing the City Manager to execute an Intergovernmental Agreement between Apache Cove Street Lighting Improvement Districts and the City of Mesa for the operation and maintenance of street lighting facilities outside of the Mesa City limits. Apache Cove subdivision is located at 121 N. 65th Street – Resolution No. 7904.
- h. Consider using eminent domain to obtain needed right of way for the North Val Vista Drive widening project, Phase II (McKellips Road to McDowell Road) – Resolution No. 7905.

The use of eminent domain is necessary to meet the project schedule.

City Manager Mike Hutchinson addressed the Council and discussed the fact that a number of street improvement projects are being conducted in northeastern areas of the City in conjunction with extension of the Red Mountain Freeway, including a street widening project on Val Vista Drive between McDowell and McKellips. He commented on the public input process conducted concerning this project, the complexities involved in this type of project and the importance of adhering to the project time schedule. He reported that Real Estate staff has worked for approximately one year on this project and that all of the properties have been acquired except one property and added that staff has been unable to reach a final financial settlement regarding this last property.

City Attorney Debbie Spinner outlined the eminent domain litigation process and commented on the fact that the only unresolved issue with the property owner is the value of the land to be acquired by the City. She reported that as part of the litigation process, staff will ask the Court to award immediate possession of the property to the City so that the project can proceed. She noted that if this request is granted, as it is expected to be, the City would then post a bond equivalent to the City's perceived value of the property, which the landowner is entitled to receive immediately. She added that a jury will hear the eminent domain trial and decide the value of the land.

Cliff Strait, 2701 N. Val Vista, the property owner, addressed the Council and provided a chronological overview of negotiations with City staff concerning the value of the property to be acquired by the City. He stated that he is requesting compensation based on \$200,000 per acre and that by his calculations, the City's most recent offer is based on \$152,460 an acre. He added that the actual difference between the two is in the range of \$5,000. Mr. Strait also discussed improvements on the land to be acquired by the City, including a block fence, decorative wrought iron fencing and a gate, and also outlined discrepancies between the values assessed by the two parties for these improvements.

Mr. Strait also commented on a nearby property owner's settlement with the City concerning this same street widening project and voiced the opinion that his neighbor received a more generous settlement than what the City has offered him.

Mr. Strait stated that he recommends proceeding with the eminent domain case as recommended by staff and requested that he be allowed to provide the City's appraiser with additional information relative to his property.

In response to a question from Mayor Hawker concerning Mr. Strait's request to provide information to the City's appraiser, Ms. Spinner commented that as part of the eminent domain process, the City's appraiser will be required to update the appraisal and that Mr. Strait will be provided the opportunity to provide additional information.

In response to a question from Councilmember Jones regarding whether the City will build a sound abatement wall along this project as it has along other arterial street widening projects, Real Estate Services Director Doug Tessendorf advised that the property owner can choose to build the sound wall himself or the City will build the sound wall. He added that the City will pay the property owner \$90 per foot to have the sound wall built.

Discussion ensued regarding the difference between the value of the existing fence and the sound wall; and the fact that the cost of sound walls recently built by the City along other arterials has been in the \$90 - \$110 per lineal foot range.

Property Acquisition Supervisor Melita Hillman reported that the appraised value of the existing fence on the property is \$13 a lineal foot. She also noted that depreciation is a factor considered by appraisers when determining fence values.

In response to a question from Councilmember Kavanaugh, Ms. Hillman reported that the property to be acquired by the City from Mr. Strait is approximately 350 feet of single street frontage that is 17 feet deep, totaling 3,033 square feet.

Councilmember Walters voiced appreciation to Mr. Strait for his input and reiterated his recommendation to proceed with the eminent domain court case. She voiced approval regarding staff's recommendations to proceed with the court case and urged staff to continue negotiations with Mr. Strait throughout the process.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Resolution No. 7905 be approved.

Councilmember Thom thanked staff and Mr. Strait for their input concerning this agenda item.

In response to a question from Councilmember Thom concerning whether Mr. Strait will be reimbursed for the cost of obtaining an independent appraisal of his property, Ms. Spinner advised that the reimbursement of costs incurred by a prevailing party in an eminent domain case is a decision made by the Judge.

Mr. Strait voiced the opinion that legal fees associated with proceeding with the Court case combined with the cost of conducting another appraisal would exceed the amount that is currently in dispute.

Carried unanimously.

*7. Write-off of utility and miscellaneous accounts in the amount of \$266,542.00.

8. Consider the following recommendation from the Utility Committee:

- *a. Establishing two new pressure zones in the City of Mesa, and developing and appropriately funding capital improvement projects to accomplish this.

9. Consider the following ordinances:

- *a. **A02-4** Annexing the northwest corner of 93rd Street and McLellan (2± acres) – Ordinance No. 4010.
- *b. **Z02-23** The southwest corner of Baseline and Ellsworth Roads (16 ac). Rezone from R-4 PAD to C-2. This case involves the development of a neighborhood retail center. Craig Bollman, owner; Joe Murray, applicant – Ordinance No. 4011.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage, square footage, and limited to five pads as shown) 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.
6. Compliance with all requirements of the Design Review Board.
7. All pad buildings to be architecturally compatible with the center.
8. Review and approval of a Special Use Permit by the Board of Adjustment for gas pumps, and comprehensive sign plan.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport which will be prepared and recorded by the City prior to the issuance of a building permit.
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
11. Compliance with the following terms of the letter from Casey Denny to Maria Salaiz dated July 3, 2002; this letter is incorporated into the ordinance by reference:
 1. Public Disclosure of Potential Noise Impacts – In order to ensure constructive and timely disclosure of potential noise impacts to the current and future occupants, developments within this area should be required to execute the following:
 - a. An Aircraft Noise Disclosure Statement.
 - b. An Avigation Easement.

- c. Notification on the Plat and Title – the plat and title should note that the site is within an Airport Overflight Area subject to aircraft noise. Specifically, the plat should indicate, “these properties, due to their proximity to Williams Gateway Airport, are likely to experience aircraft overflights that generate noise levels which will be of concern to some individuals”.
 2. Sound Attenuation Measures – Due to its proximity to the Airport, sound attenuation measures should be installed during initial construction so as to achieve an exterior to interior noise level reduction (NRL) of 20 decibels.
- c. **Z02-24** The 3700-3800 block of McKellips Road (38 ac). Rezone from R1-35 to R1-35 PAD. This case involves the development of a single-residence subdivision. David Day, owner; Gregory L. Allen, applicant, represented by Sean Lake – Ordinance No. 4013.
1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat (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.
 6. Maintain or install two rows of citrus trees along the McKellips Road frontage.
 7. Compliance with all requirements of the Subdivision Technical Review Committee.
 8. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance(s) outlined in the staff report.
 9. 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).
 10. Written notice be provided to future residents, and acknowledgment received that the project is within one mile of Falcon Field Airport.
 11. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
 12. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.

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

Councilmember Whalen declared a potential conflict of interest and refrained from discussion/participation in this item.

Councilmember Walters commented that she is aware of Council concurrence regarding the fact that the only issue in question concerning this zoning case is the issue of retention of citrus trees on the parcel.

Mayor Hawker concurred with Councilmember Walters' comments and urged speakers to limit their comments to the issue of citrus retention.

Sean Lake, 10 W. Main Street, the attorney for the applicant, addressed the Council and stated that the applicant has agreed to maintain irrigation of the existing citrus trees during the construction phase of the project. Mr. Lake reported that the zoning application before the Council, which was approved by the Planning and Zoning (P & Z) Board, provides for retention of two rows of citrus trees along the McKellips Road frontage. He further reported that the retention of citrus trees on each lot within the subdivision was addressed by the P & Z Board and it was determined that requirements for maintaining citrus trees on individual lots would be more appropriately addressed in the Covenants, Conditions and Restrictions (CC&R's) of the subdivision. He noted that it is the opinion of the P & Z Board, the applicant and City staff that the City should not be involved in the enforcement of citrus retention on individual lots.

Lew Lenz, 3717 E. Pomegranate Street, addressed the Council and stated that the North East Mesa Homeowners generally support the project. He voiced concerns regarding the fact that although the developer has agreed to incorporate conditions in the CC&R's that mandate the retention of citrus trees on individual lots (consisting of a row of citrus along the back of each lot plus four additional citrus trees anywhere else on the lot), the zoning case record does not reflect this agreement. He stated that the revised narrative submitted by the developer subsequent to the P & Z Board hearing, deleted the reference to this agreement.

Mr. Mizner confirmed that the applicant submitted two narratives concerning this case. He stated the opinion that the second narrative submitted by the applicant subsequent to the P & Z Board hearing was well-intentioned to support the Board's direction that the condition relative to retention of citrus on individual lots should be contained in CC&R's and not as a condition of the zoning case, which would involve the City in the regulation of citrus on individual lots. He stated that the applicant has committed to include these requirements in the CC&R's, and that this commitment is reflected in the minutes of the P & Z Board hearing and also in a letter submitted by the applicant. Mr. Mizner stated that staff is satisfied with the commitment made by the applicant and will ensure that these requirements are reflected in the subdivision CC&R's during the subdivision review process. He noted that at the point when the developer is no longer involved in the subdivision and the responsibility for the CC&R's is relinquished to the homeowners, the homeowners' association has the right to modify the CC&R's. He commented on the value associated with citrus property in this area and said that it is the opinion of staff that a significant amount of citrus will be retained on this parcel on a long-term basis.

Mr. Lake confirmed that the intent of the second narrative submitted by the applicant is to reflect the direction of the P & Z Board.

In response to questions from Mayor Hawker regarding maintenance of the citrus bordering McKellips Road, Mr. Lake advised that the homeowners' association will maintain the citrus along McKellips and that maintenance of two rows of citrus along McKellips is a condition of the zoning case (#6).

Discussion ensued regarding the fact that the lots will be flood irrigated and that this condition is included in the project narrative (Article VII).

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Griswold, that Ordinance No. 4013 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting and Ordinance No. 4013 adopted.

- d. **Z02-25** 6544 E. Baseline Road (5.7 ac). Rezone from C-2 BIZ to O-S PAD and C-2. This case involves the development of an office condominium project. U.P. Mesa, Inc., represented by William Oliver, owner and applicant. – Ordinance No. 4014.

P&Z Recommendation: Denial (Vote passed 5-1 Bailey voting nay)

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. Medical uses only for the four offices located along the east side of the development.
4. Site Plan Review through the Planning and Zoning Board, Design Review Board and City Council of any future development plans for the restaurant pad.
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 Town of Gilbert related to street improvements for Baseline Road frontage.
7. 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.
8. Compliance with all requirements of the Subdivision Technical Review Committee.

9. Compliance with all requirements of the Design Review Board.
10. Review and approval of the development plans by the Superstition Springs Community Master Association prior to consideration by the Design Review Board.
11. Review and approval of a Special Use Permit by the Board of Adjustment for a comprehensive sign plan.
12. 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).
13. Written notice be provided to future tenants, and acknowledgment received that the project is within five miles of Williams Gateway Airport.
14. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
15. Recordation of vehicular cross-access and reciprocal parking easements for the overall contiguous office park.
16. Vehicular cross-access be provided for parcel 141-54-020K located south of the subject parcel and adjacent to Baseline Road (north side), with no additional driveways to Baseline Road permitted.

Councilmember Walters discussed the fact that the Council previously considered this case and the fact that during the preceding Study Session, staff advised the Council that this case does not require a super majority (3/4) vote of the Council for approval (as indicated on the agenda).

It was moved by Councilmember Walters, seconded by Councilmember Jones, that Ordinance No. 4014 be adopted.

Discussion ensued regarding the fact that the P & Z Board and staff recommend denial of this case.

Vice Mayor Kavanaugh stated opposition to the Motion and said that he supported the previous project plan for this parcel that included development of a hotel on this site. He stated that the hotel was an integral part of the prior master plan, which was approved by the Council. He voiced the opinion that maintaining the integrity of the prior master plan in this key growth area of the City is important to the community as a whole.

In response to a question from Mayor Hawker concerning the proposed C-2 designation, Mr. Mizner reported that inclusion of the C-2 designation with the proposed office zoning is due to a proposed restaurant usage at the Southern end of the property.

Mayor Hawker stated opposition to the Motion and concurred with Vice Mayor Kavanaugh's comments. He commented on the original project site plan, the fact that this parcel is adjacent to the existing golf course and water features and the value associated with preserving this site for a quality hotel project. He also voiced the opinion that the Power Road corridor is going to see significant development in the future in conjunction with development of Williams Gateway Airport. He commented on the continued growth of the City and voiced the opinion that at build-out, the City would support a hotel in this major hub area, in addition to hotels in the Williams Gateway and Falcon Field areas.

Councilmember Thom stated support for the Motion and voiced the opinion that the parcel is not large enough for a hotel. She also said that she is opposed to the City dictating the manner in which private property owners can develop their property.

Councilmember Griswold also stated support for the Motion and voiced the opinions that the local hotel market is currently over-saturated and that development of a hotel on this 5.7-acre parcel would be difficult. He added the opinion that the Williams Gateway area provides significant opportunities for quality hotels in the future.

Councilmember Whalen stated support for the Motion. He said that the previous application submitted by this applicant requested an inappropriate designation and that at that time a number of Councilmembers voiced support for an office complex on this parcel. He commented that he would prefer to have a hotel at this location and voiced the opinion that hotels are likely to develop in the Williams Gateway and Falcon Field areas prior to this location. He commended the applicant for his long-term, although unsuccessful efforts to develop a hotel at this location and urged the applicant to develop a quality project.

William Oliver, the applicant, addressed the Council and urged the Councilmembers to approve this project. He said that he is also disappointed that efforts to develop a hotel on this site were unsuccessful.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Ordinance No. 4014 adopted.

- *e. **Z02-28** The southwest corner of Broadway Road and Stapley Drive (1.74 ac). Rezone from R-2 and R1-6 to C-2. This case involves the development of a convenience and gas store. Dave Cisiewski, owner; Daniel Bonow, applicant – Ordinance No. 4012.

P&Z Recommendation: Approval with conditions (Vote 5-1 Carpenter voting nay)

1. Compliance with the basic development as described in the project narrative and as shown on the revised site plan and elevations submitted, (without guarantee of 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. Review and approval of a Special Use Permit by the Board of Adjustment for the fueling station.

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

10. Consider the following subdivision plats:

- *a. "SONORAN VILLAGE II", – (Council District 5) – 1010 North Ellsworth Road (west side) 34 R1-6 PAD single residence lots (11.48 ac) Highland Ranch LLC., owner; Sage Engineering Corporation, engineer.
- *b. "WHISPERING RIDGE AT LAS SENDAS", – (Council District 5) – 3840 North 80th Street (west side) 31 R1-7 PAD DMP single residence lots (10.16 ac) Sonoran Desert Holdings, LLC, developer; Wood, Patel & Associates, engineer.
- *c. "VILLAGES OF EASTRIDGE UNIT 1", – (Council District 6) – 10100-10300 blocks of East Baseline Road (south side) 112 R1-6 PAD DMP single residence lots (15.70 ac) Crismon & Baseline, L.L.C., owner; CMX Group, Inc., engineer.
- *d. "VILLAGES OF EASTRIDGE UNIT 2", – (Council District 6) – 9800-10200 blocks of East Kiowa Avenue (north side) 121 R1-6 PAD DMP single residence lots (16.50 ac) Crismon & Baseline, L.L.C., owner; CMX Group, Inc., engineer.
- *e. "VILLAGES OF EASTRIDGE UNIT 10A", – (Council District 6) – 9800-10100 blocks of East Kiowa Avenue (south side) 91 R1-7 PAD DMP single residence lots (16.27 ac) Crismon & Baseline, L.L.C., owner; CMX Group, Inc., engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that the Regular Council Meeting adjourn at 7:25 p.m.

Carried unanimously.

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 9th day of September 2002. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

pjt