

COUNCIL MINUTES

March 7, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on March 7, 2005 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Barbara Jones
Debbie Spinner

Invocation by Vice Mayor Walters.

Pledge of Allegiance was led by Mark Abbott, Boy Troop No. 451.

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. 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.

Mayor Hawker noted that agenda item 9n was also removed from the consent agenda.

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

Carried unanimously.

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

Minutes from February 22, 2005 Council meetings.

3. Conduct a public hearing on the proposed FY 2005-2006 CDBG/HOME/ADDI/ESG programs.

Mayor Hawker announced that this is the time and place for a public hearing regarding the FY 2005-2006 Community Development Block Grant (CDBG), the Home Investment Partnership (HOME), the American Dream Down Payment Initiative (ADDI), and the Emergency Shelter Grant (ESG) programs. He asked Vice Mayor Walters, a member of the National League of Cities' Community and Economic Development Steering Committee, to comment on the current status of the subject programs at the national level.

Vice Mayor Walters reported that the Bush Administration proposes to eliminate 19 programs and to shift responsibility for the remaining programs from the Department of Housing and Urban Development to the Department of Commerce. She noted that the City of Mesa has effectively utilized CDBG funds for the past 30 years to address important projects, including the East Valley Men's Center and the recent addition to the Marc Center. Vice Mayor Walters explained that non-profit agencies are the providers of social services in the City of Mesa. She advised that the proposed guidelines require that a City have at least ten percent of its population living in poverty in order to qualify for CDBG funding. Vice Mayor Walters noted that the City of Mesa, despite having 40,000 citizens living in poverty, would be ineligible to receive CDBG funding if the Administration's proposal is adopted. She stated that the City Council and the National League of Cities would continue to address this issue at the national level.

Pat Gilbert, 1519 East Frost, said that his comments are being made as a private citizen rather than as the representative of a non-profit agency. He thanked Vice Mayor Walters for her efforts, and he stated the opinion that Councilmembers serve as stewards of the Federal funds that are to be utilized to meet the needs of the community. Mr. Gilbert also expressed the opinions that the Council's allocations of CDBG funds have shifted from the non-profit sector to City programs, and that attempts by the City to "balance the budget on the backs of many of the citizens" who benefit from CDBG funds were inappropriate.

Randy Gray, 924 North Country Club Drive, President of the Marc Center, thanked staff for recommending a funding allocation in the amount of \$100,000. He noted that the agency's original \$200,000 CDBG funding request to replace two pre-fabricated 30-year old buildings was reduced to \$100,000 in 2005-2006 with the understanding that the additional \$100,000 would be requested in the following year. He asked the Council to consider increasing the current allocation to \$200,000 due to the Administration's proposal to abolish the CDBG program in the following year. Mr. Gray stated that the community experiences a significant economic return on the investment of CDBG funds as a result of disabled individuals being provided the skills to become self-supporting.

Paul Ludwick, 1550 North Stapley Drive, #31, spoke in support of the application from the Mesa Martin Luther King Committee and the Mesa Association of Hispanic Citizens to purchase and rehabilitate a potentially historic building in the Washington Park Neighborhood. He commended the staffs of the City's non-profit agencies as well as City staff members Kit Kelly, Lisa Hembree and Justin Lisonbee for their efforts, and he stated that these City of Mesa employees are recognized throughout the Valley for their dedication and professionalism.

Darrell Christenson, 1229 E. Washington, representing the Arizona Bridge to Independent Living (ABIL), expressed appreciation for his agency's allocation, which funds home improvements and modifications designed to improve accessibility for disabled and/or handicapped individuals. He explained that enabling independent living allows individuals to remain in or return to their homes, which saves the community approximately \$27,000 per year per individual. Mr. Christenson encouraged the Council to consider accessibility issues for future new construction.

Phil Austin, 215 N. Robson, expressed disappointment with the Administration's proposal regarding CDBG funds, and he stated the opinion that a city is judged by the manner in which its disadvantaged citizens are treated.

Tena Morgan, 1720 N. Abner, representing the Neighborhood Economic Development Corporation (NEDCO), noted that NEDCO's allocation is contingent on performance. She highlighted several of the agency's accomplishments in the City of Mesa including: assisting in the establishment of a female-owned medical practice; assisting in efforts to locate a Carnicerias Rancho Grande market in Mesa that is scheduled to open in May and employ approximately 75 people; and providing technical assistance to 29 businesses.

Barbara Boone, 4402 East Kiowac Street, Phoenix, Chairman of NEDCO's Loan Committee, advised that procedures and a pipeline have been developed. She reported that the 40 firms presently on the pipeline represent a wide variety of businesses that were referred to NEDCO through networking and other entities, such as the City's Economic Development Department, neighborhood organizations and banks.

Tiffeney Cons, 827 East Main Street, representing the California-based grocery firm, Carnecerias Rancho Grande, stated that their first Arizona store is located in Phoenix. She reported that the Mesa location represents a \$1.6 million investment, and that NEDCO assisted their firm in obtaining a \$250,000 loan when additional financing was required. Ms. Cons advised that the store anticipates providing an estimated 125 jobs rather than the original projection of 75 jobs. She commended NEDCO's staff for their cooperation and efforts to provide Carnecerias Rancho Grande with creative solutions while minimizing risk.

Bari Simmons, 1051 West 5th Street, representing the Emerson Manor Neighborhood, advised that the neighborhood is requesting the installation of streetlights to ensure the safety of their citizens.

There being no additional speakers, Mayor Hawker declared the public hearing closed, and advised that the Council would address this item at the April 4, 2005 Council meeting.

4. Consider the following liquor license applications:

*4a. BILLY S. MORTON, ADMINISTRATOR

Special Event License application for Billy S. Morton, Administrator, Arizona Wing CAF, a one-day civic event to be held on Saturday, March 19, 2005, from 4:30 p.m. to 12:00 midnight at 2017 N. Greenfield Road. District #5.

*4b. ROLAND ELMER REDELINGS, PRESIDENT

Special Event License application for Roland Elmer Redelings, President, Apache Wells Shrine Club, a one day charitable event to be held on Thursday, March 31, 2005, from 4:00 p.m. to 9:00 p.m. at 2247 N. 56th Street. District #5.

*4c. MELISSA GAYLE POULSON, PRESIDENT

Special Event License application for Melissa Gayle Poulson, President, Las Sendas Elementary PTO, a one-day charitable event to be held on Friday, April 22, 2005, from 7:00 p.m. to 10:00 p.m. at 7900 E. Eagle Crest Drive. District #5.

*4d. HOWARD A. EELLS, AGENT

Person Transfer Beer & Wine Bar for Sunland Village Gold Club, 721 S. Rochester. This is a person transfer from Dennis Cavanaugh, Agent, Fozzles at Sunland Village, LLC, 721 S. Rochester. This license will transfer to the applicant. District #6.

*4e. VIRGINIA MADERA, AGENT

New Beer & Wine Store License for At Your Convenience on Broadway, 8461 E. Broadway Road. This is an existing business. The Beer & Wine Store License previously held at this location by Gregory M. Sargovetz, Agent, C&M Convenience Stores, Inc., was closed on 11/18/02. District #6.

*4f. ELAN SABAH ARABO, AGENT

New Beer & Wine Store License for TL Qik Stop Market, 361 S. Lindsay Road. This is an existing business. The Beer & Wine Store License previously held at this location by Debbie Lan Nguyen, Agent, TL Qik Stop Market, Inc., will revert back to the State. District #2.

*4g. RUBEN NUNEZ GUZMAN, AGENT

New Restaurant License for Chevy's Fresh Mex, 1335 S. Alma School Road. This is an existing business. The Restaurant License previously held at this location by Dawn Quevas, Agent, Chevy's Inc., a CA Corp. Qualified, will revert back to the State. District #3.

*4h. EDWIN P. BESONSON, AGENT

New Restaurant License for Molly Brannigans, 1744 S. Val Vista Drive, Ste. #101, Mesa. This is new construction. No previous liquor licenses at this location. District #2.

5. Introduction of the following ordinances and setting March 21, 2005, as the date of the public hearing on these ordinances:

- *5a. **A04-08 (District 6)** Annexing the northwest corner of South Mountain Road and East Mesquite Street (14.86± ac.). Initiated by the property owner – Gilbert Unified School District.
- *5b. **Z05-17 (District 6)** The 10,100 - 10,300 blocks of East Southern Avenue (south side, south to Hampton Avenue) and the 1300 block of South Crismon Road (east side, east to the South Chesire alignment). Generally located south and east of the southeast corner of Crismon and Southern Roads (47± ac.). Rezone from C-2, PEP and M-1 to C-1 BIZ and Site Plan Review. This case is to allow the development of a hospital. V.J. Crismon, LLC (Vance H Marshall) and IASIS Healthcare Holdings, Inc. (W. Carl Whitmer), owners; Mike Withey of Withey, Anderson & Morris, applicant.
- *5c. **Z05-20 (District 3)** The 500 block of West Baseline Road (south side). Located south of Baseline Road and west of Country Club Drive (1.44 ac.). Site Plan Modification. This case is to allow for the development of a retail building. Steve Adams, owner; Darlene Moore, Cawley Architects, applicant.

6. Consider the following contracts:

- *6a. Additional purchase for 15kV aluminum electrical cable for warehouse inventory to be used by the Electric Utility Division. (Contract 2004180).

The Purchasing Division recommends a dollar limit increase to the contract for 15kV aluminum electrical cable (for item 4) to Wesco Dist. Inc. at \$76,792.32, including applicable tax and based on estimated annual requirements.
- *6b. Additional purchase option for one replacement 85' Fire Aerial Platform Truck and two replacement Fire Pumper Trucks as requested by the Fire Department. (Contracts 2004139 and 2004173).

The Purchasing Division recommends an additional purchase option for one 85' Fire Aerial Platform Truck and two Fire Pumper Trucks by Pierce Manufacturing, Inc. at \$1,810,732.75, including applicable use tax and a steel surcharge for the Fire Aerial Platform Truck.
- *6c. Integrated Library System Software Upgrade as requested by the Information Services Division (ISD). (Contract 2005115).

The Purchasing Division recommends accepting the only bid from Dynix, Inc. for software totaling \$191,213.48. (Sole Source).
- *6d. Remodel Police Basement for City Court, City of Mesa Project No. 03-007-001.

This remodel project will provide secured holding cells, partitions between prisoners and the administrative areas of the court facility, and improve circulation to provide secured and controlled prisoner movement. This project will also improve the facility's plumbing and ventilation systems.

Recommend award to low bidder, Niche Contractors, Inc., in the amount of \$278,188.00 plus an additional \$27,818.80 (10% allowance for change orders) for a total award of \$306,006.80.

- *6e. Live Burn Building Renovation and Expansion, City of Mesa Project No. 01-735-001.

This project will repair concrete damage caused by repeated exposure to high temperatures and provide for safer conditions inside the building. The project will also include the installation of a natural gas burn system to provide controlled burns in new shielded areas of the building, and expand the existing mechanical and storage rooms adjacent to the building.

Recommend award to low bidder, MTV General Contractors, Inc., in the amount of \$924,145.00 plus an additional \$92,414.50 (10% allowance for change orders) for a total award of \$1,016, 559.50.

7. Consider the following resolutions:

- *7a. Approving and authorizing the City Manager to execute a City Share Reimbursement Agreement for the reimbursement of regional offsite improvements that are being required by Mesa in conjunction with the proposed development of the Saager Office Building located at 3607 East McKellips Road – Resolution No. 8425.

- *7b. Approving and authorizing the City Manager or his designee to enter into an Intergovernmental Agreement between the Maricopa County Animal Care & Control and the City of Mesa to provide kennel service after normal operating hours – Resolution No. 8426.

- *7c. Extinguishing a Public Utility and Facilities Easement and a Waterline Easement located near the northwest corner of Baseline and Power Road – Resolution No. 8427.

Due to the new development of The Village at Superstition Springs, these easements are no longer necessary.

- *7d. Deleted

- *7e. Deleted

- *7f. Declaring as a public record that certain document filed with the City Clerk and entitled “City of Mesa Personnel Rules” – Resolution No. 8428.

8. Consider the following the ordinances:

- *8a. Repealing the existing Personnel Rules applicable to City of Mesa employees and adopting by reference new Personnel Rules – Ordinance No. 4345.

- 8b. Amending the Mesa City Code Title II, Chapter 23; Mesa Housing Services Governing Board by revising Housing and Human Services Advisory Board to Housing Advisory Board.

- 8c. Amending the Mesa City Code Title II, Chapter 2; revising Housing and Human Services Advisory Board to Human Services Advisory Board, adding Meeting Section and amending all references to Housing Services.
- 8d. Creating a Housing Advisory Board; providing for the appointment of members thereon and defining the powers and duties of the Board; amending the Mesa City Code by adding to Title II a new Chapter 24; and establishing an effective date.

Mayor Hawker announced that the Council would discuss and consider 8b, c, and d as one agenda item.

Teresa Brice-Heames, 606 North Robson, a member of the Housing Task Force that formulated the Housing Master Plan, advised that the Task Force recommended the establishment of a Housing Advisory Board to address all aspects of housing in Mesa. She expressed concern relative to the possibility that the affordable housing component would remain with the Human Services Advisory Board. Ms. Brice-Heames advised that the consensus of the Task Force was that housing in Mesa be integrated to address both the high and low level spectrum.

Mayor Hawker acknowledged the expertise of Ms. Brice-Heames in the area of housing, and he noted that her efforts with Housing for Mesa have made an effective contribution to the community.

In answer to questions from Mayor Hawker, Ms. Brice-Heames confirmed that she was in support of a single Housing Advisory Board to address both low and high-end housing. She stated the opinion that potential developers in west Mesa have the capability of integrating housing that is old, new, historic and modern for a variety of people. Ms. Brice-Heames noted that a lender who is knowledgeable regarding many types of financing could be a potential Boardmember, and that Boardmembers representing other industries and organizations would require flexibility in order to address the housing needs of many segments of the population.

Vice Mayor Walters recommended that the Council delay approval of this item. She expressed the opinion that the present wording slants the Board in favor of one particular type of housing.

In response to a question from Vice Mayor Walters, City Attorney Debbie Spinner advised that one motion could address all three items.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that the Council delay action on items 8b, c, and d, and that staff be directed to refine the wording in order to specify that the Board is to address all aspects of housing and to clarify the definitions of the Board's powers and duties, and that the revisions be brought forward for Council consideration at the earliest possible date.

Councilmember Whalen advised that he was comfortable with the definitions as stated, but he agreed that the language relative to the Board's duties could be clarified.

Councilmember Thom noted that different types of housing presently exist in proximity to each other in all areas of the City of Mesa.

Mayor Hawker concurred that the wording of the Board's powers and duties required clarification. He also recommended that the language emphasize the Council's desire to seek a balanced composition of Boardmembers in order to ensure that the entire range of housing, from starter homes to executive homes, is addressed. Mayor Hawker noted that in the past he has expressed disagreement with certain aspects of the Housing Master Plan, but he advised that he would support the motion on the floor.

Discussion ensued relative to the fact that the motion addressed language revisions to agenda item 8d, which also affect items 8b and 8c; that the ordinance will be reintroduced with the revised language; and that staff is directed to craft the revisions and bring the ordinances forward for Council consideration in a timely manner.

Mayor Hawker called for the vote.

Carried unanimously.

- e. **A04-04 (District 6)** Annexing the east side of Power Road between Ray and Williams Field Road. (67.7± acres). Initiated by the property owners. CONTINUED FROM THE FEBRUARY 22, 2005 CITY COUNCIL MEETING.

Williams Gateway Economic Area Activity Project Manager Wayne Balmer provided an update relative to the subject annexation case. He noted that discussion at a previous Council meeting suggested that the property owners apply for rezoning through Maricopa County prior to annexation into the City. Mr. Balmer advised that information provided by Maricopa County indicated that a time frame of up to eight months could be required for the County's rezoning approval process. He advised that the proposed "Annexation 04-04 - Alternative Action" (see Attachment) was drafted to address the needs of the property owners in favor of annexation and those expressing concerns regarding annexation. Mr. Balmer noted that the property owners he has spoken to agreed to extend their escrows to May 16th. He offered to assist the property owners in applying for rezoning in the City of Mesa following annexation and said that by listing his name as the applicant the property owners would not be responsible for the application fees. He outlined the timeline as listed below:

- Continue action on Annexation Case A04-04 and Zoning Case Z05-29 until May 16, 2005.
- Applications for new rezoning requests to be received by March 15, 2005.
- Rezoning requests heard by Planning and Zoning on April 21, 2005.
- Introduction of rezoning requests and Council action regarding annexation on May 16, 2005.
- Council action regarding rezoning requests on June 6, 2005.

Mr. Balmer explained that the complete package regarding these cases would be presented to the Council on May 16, 2005.

Councilmember Rawles clarified that no guarantees can be offered regarding Council approval of the rezoning cases on June 6th, but the applicants would be aware of the recommendations of the P&Z Board and staff when the annexation is considered on May 16th.

Councilmember Thom noted that wording in agenda item 8e indicates that the property owners initiated the annexation, and that the February 22nd agenda materials indicated that the Grubb & Ellis Real Estate group initiated the annexation. She requested that staff provide clarification as to the true initiating party when the item returns for Council consideration.

In response to Councilmember Thom's questions regarding the property owners who expressed a desire to add or remove their names from the petition, Ms. Spinner advised that State Statutes require that a signature be removed from or added to a petition prior to the petition being filed with the County Recorder's Office. She added that the Council could honor the requests made by property owners when the annexation is considered.

Paul Gilbert, 4800 North Scottsdale Road, speaking on behalf of the applicants, advised that he enthusiastically endorses Mr. Balmer's proposal. He noted that the subject property is strategically important to the City of Mesa due to its proximity to Williams Gateway Airport and the Arizona State University East campus. Mr. Gilbert stated that the dates outlined are acceptable to the applicant, but he emphasized that additional changes to the dates could create excrow problems.

The following individuals spoke in support of Mr. Balmer's proposal:

Jim McDowell, 7111 East Paradise Ranch Road, Paradise Valley, representing the owners of seven acres, indicated support for Mr. Balmer's proposal, and he expressed the opinion that the City was fortunate to have an employee who has made the effort to reach an agreement. He concurred with Mr. Gilbert's comment regarding the importance of the property to the City of Mesa.

Dwight Udall, 14403 South Power Road, expressed support for Mr. Balmer's proposal, and he thanked Mayor Hawker and Councilmember Thom for attending a recent neighborhood meeting regarding the proposed annexation.

Jori Udall, 14403 South Power Road, said she would oppose the annexation if the case was considered at this meeting. She expressed support for Mr. Balmer's proposal due to the fact that property owners will be provided the opportunity to consider their zoning options prior to the annexation. She added that many of her concerns relate to the quality of services available and the continued availability of services that are required by her handicapped child.

Mike Cahill, 11601 East Charter Oak Drive, expressed support for Mr. Balmer's proposal and noted the importance of adhering to the dates outlined.

Ricky Fowler, 2332 East Jacaranda Street, representing the Power Road Baptist Church, stated support for the continuation, and he expressed the opinion that an opportunity exists to resolve the issues to everyone's satisfaction. He also thanked Mayor Hawker and Councilmember Thom for attending the recent neighborhood meeting.

Mayor Hawker advised that Greg Linaman, 2525 East Arizona Biltmore Circle, representing Quik Trip, completed a card in support of Mr. Balmer's proposal, and indicated that he would speak only if there were questions to be answered.

Planning Director John Wesley indicated that staff is in agreement with Mr. Balmer's proposal.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that consideration of the subject case be continued until the Regular Council meeting on May 16, 2005, and that staff be directed to follow the "Alternative Action" outline provided by Mr. Balmer.

In response to questions from Councilmember Thom, Craig Boswell, 310 East Gary Circle, representing Quik Trip, stated that annexation is required in order for their project to obtain City services. He noted that City water is presently available, and that a civil engineer retained by his firm has prepared preliminary plans for a sewer extension from Ray Road south to their property that could service all of the properties between Ray Road and their location, and that the sewer line could also be extended further south to connect to Mr. Nasser's property. He stated that continuing the case until May 16th would not negatively impact their proposed development.

Responding to a question from Councilmember Whalen, Mr. Gilbert stated that he would continue to work with the property owners who are opposed to the annexation during the continuation period.

Councilmember Whalen complimented Mr. Balmer for his efforts to resolve the issues regarding the proposed annexation.

Mayor Hawker called for the vote.

Carried unanimously.

8.1. Consider the following recommendation from the Police Committee:

8.1a. Recommend directing staff to implement the training and qualification criteria for the Police Use of Force Review Board and have staff compile a list of individuals who may wish to participate as civilian members of the Police Use of Force Review Board and who would be willing to enroll in an upcoming Mesa Citizen Police Academy in order to complete certain criteria to become eligible for placement in the citizen pool.

Mary Lou St. Cyr, 724 South Kachina Lane, a member of the Ad Hoc Committee to Study Police Oversight speaking as a private citizen, expressed support for the Council to approve the recommendation as presented.

Special Assistant to the City Manager Eric Norenberg recapped the process for including non-voting citizen participation on the Police Use of Force Review Board, which includes:

- Development of a candidate application form.
- Selection by the City Manager, in cooperation with the Chief of Police, of a pool of citizen candidates from the alumni of the Citizen Police Academy.
- Encourage interested candidates to attend the Citizen Police Academy.
- Random selection by the City Manager and Chief of Police of two citizens from the pool to participate on a Use of Force Review Board when such a board is convened.
- The citizen members of the Use of Force Board can participate in the discussions, but they are ineligible to vote on whether the actions of the officer(s) involved were within or outside of Police Department policy.
- Additional training provided to the citizen pool by the Police Department as required in order to update their knowledge of police procedures.

In response to questions from Mayor Hawker, City Manager Mike Hutchinson stated that he would cooperate with the Chief of Police to create a pool a pool of citizens representative of the diversity within the community. He clarified that although the pool of citizens would be diverse, the two participants would be randomly selected from the pool to serve on a Use of Force Board.

Mayor Hawker expressed concern that certain segments of the community would not be satisfied if the random selection process resulted in participants who were not representative of the individuals involved in the case. He added that he continues to oppose any form of a civilian review board.

Councilmember Jones stated that his concern related to the fact that the subject recommendation could be a "first step" in creating a civilian review board. He also advised that he discussed the issue with Police Chief Dennis Donna to ensure that the Chief is comfortable with the process. Councilmember Jones expressed the opinion that the subject recommendation does comply with the existing City Charter, and that the proposed Council action could prevent a future effort to change the Charter to allow civilian oversight. He also expressed the opinion that the Police Chief has the right to select the citizen participants to serve on a Board, and he added that the charge to the Use of Force Review Board is to consider whether the officer or officers involved correctly followed Police Department policies and procedures.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that the recommendation of the Police Committee be approved.

Councilmember Griswold expressed the hope that the recommendation would prevent a future "rush to judgment" and provide a balanced view of any future investigation.

Councilmember Thom stated the opinion that the recommendation was an emotional response to certain incidents that occurred in the community. She added that although the recommendation does not constitute civilian oversight of the Police Department, she would not support the motion to approve the Police Committee's recommendation.

City Attorney Debbie Spinner expressed the opinion that the recommendation before the Council does not require a Charter change. She noted that the Charter language prohibits a civilian police review board, and that the recommendation for non-voting, civilian members of a Use of Force Board does not constitute civilian review. Ms. Spinner explained that civilian review in other communities is defined as citizens being able to rule on police officer conduct.

Responding to questions from Mayor Hawker, Ms. Spinner stated that the civilian members of the Use of Force Board would be able to participate in Board discussions and ask questions, but they would not be able to vote. She advised that the Use of Force Board participants would be required to maintain the confidentiality of the proceedings until the process has been completed.

Vice Mayor Walters noted that the Council previously voted to establish a pool of citizens to serve on the Use of Force Board, and that the issue before the Council was consideration of the process to establish criteria for participants in the pool. She noted that this proposal is not considered to be "cutting edge" due to the fact that many communities have already adopted a similar process. Vice Mayor Walters added that police officers from other communities stated that initially they were apprehensive regarding civilian participation, but that the officers were

now supportive because civilian participation removed some of the secrecy from the process, and the civilian participants often expressed support for the officers. She added that the Use of Force Board would continue in an advisory capacity to the Chief of Police.

Councilmember Jones stated that he wanted to clarify that civilian participation beyond this level would not have his support.

In response to Mayor Hawker's questions regarding the penalties or consequences that would result in the event a civilian participant on a Use of Force Board violated the confidentiality of the proceedings, Ms. Spinner advised that the confidentiality issues would be addressed with all participants.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by a majority vote.

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

- 9a. **Z04-106 (District 5)** 2759 North Val Vista Drive. Located east of Val Vista Drive and south of McDowell Road (2.47 ac.). Rezone from R1-35 to O-S-PAD and Site Plan Review to allow for the development of office buildings. Saager Development, L.L.C., (Eric Faas) owner/applicant – Ordinance No. 4358.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all 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. Compliance with all requirements of the Design Review Board.
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.

Mayor Hawker noted that a $\frac{3}{4}$ vote of the Council is required for approval.

Eric Faas, Saager Development, 1515 North Greenfield Road, representing the owner/applicant, noted that the subject case addressed development in the Citrus Sub-Area, which has an active neighborhood group. He advised that significant effort has been devoted to the site plan in cooperation with the Citrus Area Homeowners Association. Mr. Faas stated that the developer has followed the General Plan as well as the Citrus Sub-Area Plan to insure the cooperation of the neighbors. He noted that following negotiations over a period of months, the developer and the Citrus Area Homeowners reached a consensus on a plan that is significantly smaller than the developer's original proposal. Mr. Faas added that the developer agreed to the following items in an effort to reach a consensus:

- Buildings are situated further to the rear of the property than originally proposed.
- Six foot screening wall will be built.
- Forty-seven 36" box trees will be installed to address the neighborhood's concern that the required 24" box trees were insufficient to provide the necessary screening.
- 88 parking stalls are planned, which is 32 more than the number required by Code.

Mr. Faas outlined the chronology of citizen participation regarding the subject development:

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|--------------------|---|
| February 2004 | The developer began working with the neighborhood and negotiated the site plan. |
| April 2004 | The Citrus Area Homeowners' Association sent a letter to the City of Mesa's Planning Department commending the developer's efforts. |
| September 7, 2004 | The developer made a formal submittal to the City of Mesa. |
| September 30, 2004 | The date of the first neighborhood meeting. |
| November 4, 2004 | The date of the regularly scheduled Citrus Area Homeowners' meeting at which the project plans were presented by the developer. |

Mr. Faas noted that Cliff Strait first expressed opposition to the office development at the November 4th meeting. He noted that the Planning and Zoning (P&Z) Board and Design Review Board specifically addressed many of Mr. Strait's issues, and that the developer agrees to comply with the requirements of these Boards. Mr. Faas noted that at his invitation, Mr. Strait physically inspected the site in order to identify areas where his privacy would be infringed. He noted that Mr. Strait identified three areas, and the developer agrees to install trees sufficiently high to screen Mr. Strait's property at these locations. Mr. Faas added that a high level of cooperation has existed between the developer and the Citrus Area Homeowners regarding the project.

Cliff Strait, 2701 North Val Vista, stated opposition to the project and noted that his property was the most impacted by the development. He expressed the opinion that due process was not followed when the Council adopted the Citrus Sub-Area Plan, and that "scare tactics" were used to obtain neighborhood support for this project. He further stated that commercial development was not suitable for the area.

The individuals listed below spoke in support of the project:

Lew Lenz, 3717 East Pomegranate Street, Co-Chairman of
the Citrus Area Homeowners' Association
Rick Dale, 2113 North Maple Street
Dina Higgins, 2341 North Lemon Circle

Comments made in support of the project are as listed below:

- Commercial development already exists at the corner of McKellips and Val Vista.
- The developer has proposed a project that successfully blends commercial and residential development.
- The project retains the rural citrus character of the area.
- The Citrus Sub-Area Plan lists five intersections that are acceptable for commercial development.
- Saager Properties has made extensive efforts to address the concerns of the Citrus Area Homeowners.

The following citizens completed cards in support of the development, but indicated that they did not wish to address the Council:

Cora Lenz, 3717 East Pomegranate Street
Gary & Helen Williams, 3051 North Redrock Drive

Mr. Faas noted that the Citrus Sub-Area Plan is not the enabling document that allows rezoning of the property from R1-35 to O-S (Office Service) PAD (Planned Area Development). He explained that O-S is allowed in residential zones according to the General Plan provided that the Code requirements are met, the proper citizen communication channels are followed and the City Council approves the plan.

Mr. Wesley advised that the request before the Council is consistent with the Mesa 2025 General Plan and the Citrus Sub-Area Plan. He stated that City staff and the P&Z Board recommend approval.

It was moved by Councilmember Thom, seconded by Councilmember Rawles, that Ordinance No. 4358 be adopted.

Discussion ensued relative to the fact that busy intersections are not desirable residential development sites; that the developer made considerable effort to address the concerns of the neighbors; that the area is a great place to live; and that area property values are escalating rapidly.

Councilmember Whalen requested that staff investigate Mr. Strait's claim that the City participated in clearing the subject lot and removing the tree stumps.

Mayor Hawker called for the vote.

Carried unanimously.

- *9b. **Z05-01 (District 6)** 1825 South Val Vista Drive and Inverness Avenue. Located north and east of Baseline Road and Val Vista Drive (2.47 ac.). Site Plan Modification. This request is for the development of a bank. State Farm Mutual; Steven Kalaskie (Director), owner; Jeremy Jones, DWL Architects, applicant – Ordinance No. 4346.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. 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. All street improvements and perimeter landscaping to be installed in the first phase of construction.
7. Compliance with all requirements of the Subdivision Technical Review Committee.
8. Compliance with all requirements of the Design Review Board.
9. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *9c. **Z05-02 (District 5)** 2830 North Norwalk. Located north and west of McDowell Road and Greenfield Road (5.13 ac.). Site Plan Modification. This request is for the development of industrial buildings. Viewpoint Resort (Dan Reeb), owner; Gregory Hitchens, applicant – Ordinance No. 4347.

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

1. Compliance with the conditions of Ordinance #3748 (Z99-99) and 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. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications 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.

*9d. **Z05-05 (District 6)** The 9000 block of East Guadalupe Road (south side). Located south and west of Guadalupe Road and Ellsworth Road (8.2 ac.). Rezone from R-2 DMP to R-2 BIZ-PAD-DMP and Site Plan Review. This request is to allow for the development of a town home development. Donald J. Zeleznaik, owner; Jason P. Allen, applicant – Ordinance No. 4348.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with the Residential Development Guidelines.
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. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
7. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
8. Noise attenuation measures be incorporated into the design and construction of the homes to achieve a noise level reduction of 25 db.
9. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
10. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*9e. **Z05-06 (District 6)** 6225 East Test Drive. Located south and west of US 60 and Superstition Springs Boulevard (3.18 ac.). Rezone from M-1 PAD to M-1 PAD BIZ and Site Plan Review. This request is to allow an auto dealer facility to exceed the maximum number of permitted stories. John Stalupi, Jr., owner; Barry Barcus, applicant – Ordinance No. 4349.

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

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 Staff.

3. Compliance with all Superstition Springs Auto Park Development Guidelines (Parcel 7).
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

*9f. **Z05-07 (District 4)** The 800 block of West Broadway Road (south side). Located on the southwest corner of Broadway and Extension Roads (0.87 ac.). Rezone from M-1 to M-1 PAD and Site Plan Review. This request is to facilitate individual building ownership in an existing industrial commercial development. R. Cutler, owner; Gary D. Wenger, applicant – Ordinance No. 4350.

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

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 Subdivision Technical Review Committee.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Approval and Compliance with all requirements of a Substantial Conformance Improvement Permit (SCIP).

*9g. **Z05-08 (District 5)** 6116 East Arbor Avenue. Located south and east of Main Street and Recker Road (4.59 ac.). Rezone from C-2 to C-2 PAD and Site Plan Review. This request is to allow for medical office condominiums. Michael Hamberlin, owner; Steven Nevala, applicant – Ordinance No. 4351.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted except as noted below.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. All street improvements and landscaping to be installed in the first phase of construction.
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

*9h. **Z05-09 (District 6)** 10646 East Pecos Road. Located north and west of Pecos Road and the alignment of Signal Butte Road (2.9 ac.). Site Plan Review. This request is to allow for a general contractors yard and associated office. Dave Jarvis, owner; Laurel Hodges, applicant – Ordinance No. 4352.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat submitted except as noted below.

2. Compliance with all requirements of the Design Review Board.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. All street improvements and landscaping to be installed in the first phase of construction.
5. 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).
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *9i. **Z05-10 (District 5)** 6740 East University Drive. Located north and west of University Drive and Power Road (1.08 ac.). Site Plan Modification. This request is to allow for the development of an inline general commercial center. Dan Mikalacki, owner/applicant – Ordinance No. 4353.

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

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. 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. All street improvements and street frontage landscaping to be installed in the first phase of construction.
6. Recordation of cross-access easements between all lots shown to have cross access.

- *9j. **Z05-11 (District 6)** The 5200 to 5300 Block of East Southern Avenue (south side). Located south of Southern Avenue and east of Higley Road (1.38 ac.). Site Plan Modification. This request is to allow for the development of a retail pad for a car wash. Rick Stertz, Strategic Asset Acquisition, LLC, owner; Rick Huch, Seaver Franks Architect Inc., applicant – Ordinance No. 4354.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. Review and approval of a Special Use Permit by the Board of Adjustment for the car wash.

- *9k. **Z05-12 (District 6)** The 4600 to 5600 blocks of South Mountain Road (west side) and the 10800-11200 blocks of East Galveston Street (north side). Located east of the Signal Butte Road alignment, north and south of Ray Road. (572.71 ac.). Rezone from Maricopa County Rural-43 to City of Mesa R1-43. This case involves the establishment of City zoning on recently annexed property. Pulte Homes (Andrew E. Moore with Earl, Curley & Lagarde, P.C.), owner; City of Mesa, applicant – Ordinance No. 4355.

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

1. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
2. Compliance with all City development codes and regulations.

- *9l. **Z05-13 (District 6)** 4566 East Inverness Avenue. Located north of Baseline Road and east of Greenfield Road. (2.24 ac.). Modification to the PAD overlay. This request is to allow the subdivision of an existing office building. East Valley Medical Office Building, LLC, owner; Mark Mullen, applicant – Ordinance No. 4356.

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

1. Compliance with the preliminary plat and 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 Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Compliance with all requirements of the Subdivision Technical Review Committee.

- *9m. **Z05-14 (District 2)** 1905 South Lindsay Road. Located north of Baseline Road and east of Lindsay Road. (0.87 ac.). Rezone from R1-9 to O-S and Site Plan Review. This request is to allow for the development of offices. Kenneth D. Russell, owner; Christian Bowers, Piping Systems, applicant – Ordinance No. 4357.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. Compliance with all requirements of a Substantial Conformance Improvement Permit.
6. No pedestrian or vehicular access to Fontana Street.

- 9n. **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, MAY 17, 2004, JUNE 7, 2004, JULY 6, 2004, AUGUST 16, 2004, SEPTEMBER 7, 2004, OCTOBER 4, 2004, DECEMBER 6, 2004, AND FEBRUARY 7, 2005 CITY COUNCIL MEETINGS. THE APPLICANT IS REQUESTING THAT THIS CASE BE CONTINUED TO THE APRIL 4, 2005 CITY 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.

Vice Mayor Walters declared a potential conflict of interest and said she would refrain from discussion/participation in this agenda item.

It was moved by Councilmember Whalen, seconded by Mayor Hawker, that this case be continued until April 4, 2005.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

10. Consider the following subdivision plat:

- *10a. "GREENFIELD GATEWAY", – (Council District 6) – 1700 block of South Greenfield Road (west side) located north and west of Baseline Road and Greenfield Road. 5 M-1 commercial lots (18.01 ac.) Sportsman's Warehouse, Inc., a Utah Corporation, owner; SKG Engineering, engineer.

11. Items from citizens present.

There were no items from citizens present.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:05 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 March 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

baa

Attachment

(8e)

DRAFT

ANNEXATION 04-04 - ALTERNATIVE ACTION

A04-04 - Scheduled for Council action	March 7, 2005
Z05-29 - To establish comparable City/County zoning	
Scheduled for council introduction	March 21
Scheduled for Council action	April 4
Rezoning to adopt new classifications as needed	
Application requests received	March 15
Planning and Zoning Board Hearing	April 21
Council Introduction	May 16
Council action	June 6

PROPOSAL

Continue action on A04-04 and Z05-29 until	May 16
Introduction of rezoning requests	May 16
Council action on rezoning requests	June 6

This would allow the Council to take action on both the annexation and the establishment of the comparable zoning at the same time - and to hear the introduction of the new zoning requests, all at the same meeting.

This would allow the owners who want to build the new commercial projects in the area now to know that the Council will indeed take action on the annexation and establishment of their current zoning - so they will remain interested in their projects in Mesa - and also allow those existing owners who have concerns to hear from the City Council on their zoning issues as well - all at the same meeting.

Although the Council will not be able to vote on all three at the same meeting, they can give the existing owners "reassurance" about how their cases are likely to be handled when they come before them for final approval on June 6.

The two-week separation between the approval of the annexation and the original zoning and any future rezoning is preferred by the City Attorney's office to clearly show that the original two ordinances to become effective before the ordinance making the change did.

Wayne Balmer March 4, 2005