

COUNCIL MINUTES

August 29, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on August 29, 2005 at 5:45 p.m.

COUNCIL PRESENT

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

COUNCIL ABSENT

None

OFFICERS PRESENT

Mike Hutchinson
Debbie Spinner

Invocation by Dr. Blaine C. Mays, Community Church of New Thought.

Pledge of Allegiance was led by Skylar Margaritis, Boy Scout Troop No. 430.

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.

At the request of a member of the audience, item no. 10 was removed from the consent agenda.

It was moved by Councilmember Thom, seconded by Vice Mayor Walters, that the consent agenda items, with the exception of item no. 10, be approved.

Carried unanimously.

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

Minutes from the June 9, August 15 and August 18, 2005 Council meetings.

3. Conduct a public hearing to release the petition for signatures for the following proposed annexations:

- 3a. **A05-03 (District 5)** Annexing land located on the southwest corner of Meridian Drive and Brown Road. (3.61± ac.). Initiated by the property owner, Wilfred Klingsat, for the development of a service (gas) station.

Mayor Hawker announced that this is the time and place for a public hearing regarding annexing land located on the southwest corner of Meridian Drive and Brown Road. (3.61± ac.). Initiated by the property owner, Wilfred Klingsat, for the development of a service (gas) station.

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

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

- 4a1. **GPMInor05-04 (District 5)** Conduct a public hearing and consider an amendment to the land use map. The 2600 to 2700 block of North Power Road (east side). Located south of the southeast corner of McDowell Road and Power Road (15.8± ac.) Minor General Plan Amendment to change the General Plan land use map from Office (OS) to High Density Residential 10-15 dwelling units per acre (HDR 10-15) and Neighborhood Commercial (NC). Power and McDowell, LLC (Edwin Gutzman), owner; Martin Hazine of HGN, LLC, applicant. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations)* COMPANION CASE Z05-79.

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

Mayor Hawker announced that this is the time and place for a public hearing regarding an amendment to the land use map. The 2600 to 2700 block of North Power Road (east side). Located south of the southeast corner of McDowell Road and Power Road (15.8± ac.) Minor General Plan Amendment to change the General Plan land use map from Office (OS) to High Density Residential 10-15 dwelling units per acre (HDR 10-15) and Neighborhood Commercial (NC). Power and McDowell.

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

Councilmember Rawles noted that the companion case (Z05-79) referred to in this item was approved by the Council on the consent agenda.

City Attorney Debbie Spinner advised that item 12j should have been removed from the consent agenda and considered separately after the public hearing.

Mayor Hawker recommended, and the Councilmembers concurred, that the Council would reconsider agenda item 12j at the appropriate time.

- 4a2. **GPMInor05-04 (District 5)** Consider adoption of the corresponding Resolution. The 2600 to 2700 block of North Power Road (east side). Located south of the southeast corner of McDowell Road and Power Road (15.8± ac.) Minor General Plan Amendment to change the General Plan land use map from Office (OS) to High Density Residential 10-15 dwelling units per acre (HDR 10-15) and Neighborhood Commercial (NC). Power and McDowell, LLC (Edwin Gutzman), owner; Martin Hazine of HGN, LLC, applicant – Resolution No. 8581. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations)* COMPANION CASE Z05-79.

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

It was moved by Councilmember Thom, seconded by Councilmember Rawles, that Resolution No. 8581 be adopted.

Carried unanimously.

5. Consider the following liquor license applications:

5a. DANIEL LEE BALES, CHAIRPERSON

Special Event License application for Daniel Lee Bales, Chairperson, East Valley Harley Owners Group, a two-day charitable event to be held on Friday, September 30, 2005 and Saturday, October 1, 2005, from 10:00 a.m. to 10:00 p.m. at 922 S. Country Club Drive. District #3.

In response to questions from Mayor Hawker, Daniel Lee Bales, the applicant, advised that off-duty Mesa Police Officers are being contracted in order to provide security for the event and that a water truck will be available on site for the purpose of controlling dust.

It was moved by Councilmember Whalen, seconded by Councilmember Rawles, that the Special Event License application for Daniel Lee Bales be forwarded to the State Liquor Control Board with a recommendation for approval.

Carried unanimously.

*5b. JOHN E. FLORES, CHAIRPERSON

Special Event License application for John E. Flores, Chairperson, Knights of Columbus, Council #9485, a one-day fraternal event to be held on Saturday, October 15, 2005 from 10:00 a.m. to 8:00 p.m. at 1534 N. Recker Road. District #5.

*5c. TEDDY BERNAL, AGENT

New Restaurant License for Frank & Lupe's Old Mexico of Mesa, 118 E. McKellips Road, Suite 105. This is an existing building. No previous liquor license has been issued to this location. District #1.

6. Consider the following contracts:

- *6a. Three-year Supply Contract for Uniform Garment Rental for various City departments. (Contract 2005156).

The Purchasing Division recommends accepting the low bid by Ameripride Services for annual expenditures estimated at \$81,173.22, including applicable sales tax.

- *6b. One Emergency Response Trailer as requested by the Fire Department. (Contract 2005154).

The Purchasing Division recommends accepting the sole responsive proposal from Utility Trailer Sales Co. at \$43,288.87, including options and applicable sales tax.

- *6c. Three-year Contract for Custodial Services for Peripheral Facilities and Downtown Facilities as requested by the Development Services Department. (Contract 2005148 and 2005149).

The Purchasing Division recommends accepting the lowest priced proposal by Management Cleaning Controls LLC as follows:

Peripheral Facilities at \$302,204.01, annually.

Downtown Facilities at \$327,677.44, annually.

The total recommended award is \$629,881.45 annually, based on estimated requirements.

- *6d. Four-year Supply Contract for Solid Waste Disposal or Transfer and Disposal as requested by the Environmental Management Division, Solid Waste Collection Services (Contract 2005157).

The Purchasing Division recommends accepting the bids from all three responsive vendors, Allied Waste/Apache Junction Landfill, Waste Management Inc. and Waste Services of AZ, Inc. Cactus Transfer, dividing the contract as follows:

Allied Waste/Apache Junction Landfill – \$431,260.00 annually for 4.0 – 7.9% of the total trash at \$21.25 per ton.

Waste Management Inc. – \$233,096.00 annually for 0.5 – 3.9% of the total trash at \$23.00 per ton.

Waste Services of AZ, Inc. Cactus Transfer – \$212,827.00 annually for 0.5 – 3.9% of the total trash at \$21.00 per ton.

The total award is \$877,183.00 annually, based on estimated expenditures.

- *6e. Two-year renewal of Supply Contract for Traffic Signal LED Modules for Warehouse Inventory as requested by the Transportation Division. (Contract 2002169).

The Purchasing Division recommends authorizing the two-year contract renewal with Dialight Corporation at \$352,907.07 annually, based on estimated requirements. The vendor has offered to decrease their prices with an average overall decrease of 5%.

- *6f. One Replacement 2,500 Gallon Water Truck as requested by the Transportation Division, Field Operations. (City of Scottsdale Contract # 05RP024).

The Purchasing Division recommends authorizing purchase from the City of Scottsdale contract with Cunningham Commercial Vehicles, LTD for \$151,042.70, including applicable taxes and extended warranties.

- *6g. Replacement of Compressed Natural Gas (CNG) Dispensers as requested by Fleet Support Services. (Contract 2005146).

The Purchasing Division recommends authorizing purchase from Tulsa Gas Technologies to supply and install two (2) CNG Dispensers at a cost of \$82,145.56, including use tax.

- *6h. Fuel Monitoring System as requested by the Fleet Support Services Division. (Contract 2005158).

The Purchasing Division recommends accepting the low bid received by Weber Group LC at \$80,358.11, including applicable taxes and contingency.

- *6i. Fuel Management System for Fleet Support Services as requested by the Information Services Division. (Contract 2004204).

The Purchasing Division recommends accepting the proposal from Multiforce Systems Corporation for an amount not to exceed \$324,653.15.

The Purchasing Division further recommends authorizing the purchase of network hardware from the State of Arizona contract with Ames Business and Learning in an amount not to exceed \$42,287.78.

The combined total award for this project is not to exceed the amount of \$366,940.93, including taxes and contingency.

- 6j. Public Housing Agency Information Management System for the Housing Division as requested by the Information Services Division. (Contract 2004188).

The Purchasing Division recommends accepting the proposal from HAPPY Software, Inc. for an amount not to exceed \$45,513.86, including contingencies.

Councilmember Rawles expressed opposition to the contract. He explained that he opposes the City's participation in public housing programs, and he noted that the City is spending local tax dollars to purchase software for the purpose of complying with Federal regulations.

Vice Mayor Walters stated the opinion that the purchase enables staff to improve efficiency while maintaining reduced staffing levels.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that staff's recommendation be approved.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

6k. East Mesa Interceptor – Phase V, Elliot Road, East Maricopa Floodway to Santan Freeway, City of Mesa Project No. 01-671-004.

This project will construct a section of the wastewater line known as the East Mesa Interceptor (EMI), from the East Maricopa Floodway to the Santan Freeway along Elliot Road. Additionally, this project will install E-Streets conduit and vault infrastructure. The cost for the E-Streets component is estimated at \$459,182.00 and will be funded with General Fund Municipal Lease-Purchase financing handled by the Financial Services Department.

Recommend award to low bidder SJL Construction, Inc., in the amount of \$2,420,000.00 plus an additional \$242,000.00 (10% allowance for change orders) for a total award of \$2,662,000.00.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/participation in agenda items 6k, l, n, and o. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

It was moved by Councilmember Jones, seconded by Councilmember Thom, that staff's recommendation be approved.

Upon tabulation of votes, it showed:

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

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

6l. 2005/2006 Surface Seal Project, City of Mesa Project No. 05-902-001 (ONLY ONE BID RECEIVED).

This Project will fog seal 550,000 square yards of street pavement citywide.

Recommend award to low bidder American Asphalt Paving and Seal Coating, Inc., in the amount of \$241,391.93 plus an additional \$24,139.19 (10% allowance for change orders) for a total award of \$265,531.12.

It was moved by Councilmember Jones, seconded by Councilmember Thom, that staff's recommendation be approved.

Upon tabulation of votes, it showed:

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

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

- *6m. 2005/2006 Crack Seal Project, City of Mesa Project No. 05-901-001 (ONLY ONE BID RECEIVED).

This project will crack seal over 2,220,000 square yards of street pavement citywide.

Recommend award to low bidder CPC Construction, Inc., in the amount of \$598,404.50 plus an additional \$59,840.45 (10% allowance for change orders) for a total award of \$658,244.95.

- 6n. Holmes Park Parking Lot, City of Mesa Project No. 04-075-001.

This project will construct a new paved parking lot on the north side of Holmes Park and a paved access road connecting the parking lot to the intersection of Holmes Avenue and Greenfield Road. Additional improvements include landscaping, sidewalks to improve pedestrian access, and improved park and parking lot lighting.

Recommend award to low bidder Concast Corporation, in the amount of \$306,650.00 plus an additional \$30,665.00 (10% allowance for change orders) for a total award of \$337,315.00.

It was moved by Councilmember Thom, seconded by Councilmember Jones, that staff's recommendation be approved.

Upon tabulation of votes, it showed:

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

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

6o. Falcon Well No. 4 Arsenic Treatment, City of Mesa Project No. 01-626-002.

This project will provide the necessary equipping and infrastructure for the installation of an arsenic treatment system at Falcon Well No. 4. Improvements will also include increasing the size of the well site to accommodate the arsenic treatment equipment and extending a new 18-inch sewer line from the well site to the City's sewer system.

Recommend award to low bidder Hunter Contracting, in the amount of \$2,578,210.00 plus an additional \$257,821.00 (10% allowance for change orders) for a total award of \$2,836,031.00.

Vice Mayor Walters advised that Federal revisions to regulations regarding acceptable levels of arsenic in drinking water could cost the City of Mesa and other cities millions of dollars, which will impact the rates charged for water. She stated the opinion that the arsenic levels in the City's wells do not pose a health risk to Mesa's citizens. Vice Mayor Walters explained that existing State regulations prevent municipalities from utilizing more cost-effective methods to treat arsenic levels that have been approved by the Federal government, and said that the City would continue to lobby the State in order to change these regulations.

It was moved by Councilmember Thom, seconded by Councilmember Jones, that staff's recommendation be approved.

Upon tabulation of votes, it showed:

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

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

7. Introduction of the following ordinances and setting September 6, 2005 as the date of public hearing on these ordinances:

*7a. Amending sections of the Mesa City Code pertaining to the National Flood Insurance program, adopting the revised Flood Insurance Study and Flood Insurance Rate Maps, and Floodplain Management Regulations.

*7b. Amending various sections of the Mesa City Code regarding the following traffic modifications:

No Parking: 10-3-24 (D) (Full Time No Parking)

On the west side of Hobson from McKellips Road to a point 330 feet south of McKellips Road. (east of Mesa Drive and south of McKellips Road, Council District 1).

On Inverness Avenue from Stapley Drive to Solomon. (west of Stapley Drive and south of the Superstition Freeway (U.S. 60), Council District 4).

On Eighth Avenue from Daley to Sierra. (east of Stapley Drive and north of Southern Avenue, Council District 4).

No Parking: 10-3-24 (F 9) (No Parking between 10:00 p.m. and 4:00 a.m.)

On Inverness Avenue from Stapley Drive to Solomon. (west of Stapley Drive and south of the Superstition Freeway (U.S. 60, Council District 4) (Remove Prohibition).

No Parking: 10-3-24 (F 10) (No Parking between 11:00 a.m. and 5:00 p.m.)

On the north side of Fraser Drive East from Fraser Drive to a point 195 feet east of Fraser Drive, on the west side of Fraser Drive East from a point 405 feet south of 2nd Street to a point 835 feet south of 2nd Street, and on the south/east side of Fraser Drive East from Fraser Drive to a point 280 feet south of 2nd Street. (west of Stapley Drive and north of Main Street, Council District 1) (Remove Prohibition).

Speed Limits: 10-4-3 (45 mph) and 10-4-4 (40 mph)

Reduce the speed limit from 45 mph to 40 mph on Recker Road from a point 1,000 feet south of Thomas Road to the Red Mountain Freeway (Loop 202). (Recker Road south of Thomas Road, Council District 5).

- *7c. **Z04-105 (District 6)** The 1600 block of South Signal Butte Road (west side). Located south of U.S. 60 and west of Signal Butte Road (66.7 ac.). Requesting a Council Use Permit to allow the development of a Freeway Landmark Monument sign in conjunction with the construction of group commercial center. (*Contacted registered neighborhoods*).

P&Z Recommendation: Approval with conditions. (Vote: Passed 5-1-1 with Finter nay and Carpenter absent).

DRB Recommendation: Approval with conditions. (Vote: Passed 5-0-1 with DiBella abstaining).

- *7d. **Z05-73 (District 5)** The 4600 to 4800 block of East McKellips Road (south side). Located south and east of McKellips Road and Greenfield Road (33± ac.). Council Use Permit and Site Plan Review. This request is to allow for the development of a Sam's Club anchored retail center. Marsha G. Greene, owner; Sean Lake, Pew & Lake PLC, applicant. (*Held neighborhood meeting and contacted registered neighborhoods and homeowners associations*).

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

8. Consider the following resolutions:

- 8a. Approving and authorizing the City Manager to execute an agreement for Fiscal Year 2005-2006 for the Downtown Banner System Management, Downtown Holiday Decorative Program Coordination, and Downtown Sculpture Program (Agreement) with Ultimate Imaginations Inc. (UII).

Councilmember Rawles stated that this item includes a \$6,500 expenditure that the Council decided during the budget process should remain as an unfunded Budget Adjustment Request (BAR). He noted that the expenditure has returned as a funded item. Councilmember Rawles expressed the opinion that when the Council fails to allocate funds for an item during the budget process, that item should remain unfunded.

Vice Mayor Walters recalled that during the budget process, discussions indicated that additional private funds would be sought to extend the holiday lighting beyond the Mesa City Plaza and Mesa Arts Center (MAC).

Tom Verploegen, President of Ultimate Imaginations Inc. and Executive Director of the Downtown Mesa Association, stated that his recollection was that holiday lighting fundraising would not occur because it negatively impacted the Sculpture Program's fundraising efforts. He noted that the City spent \$150,000 on holiday lighting last year, and that this year the Council elected to focus the lighting on the MAC and the City Plaza building with a budget of \$50,000.

Mr. Hutchinson noted that following approval of the City's budget, the Town Center Corporation was directed to move forward regarding the budgeted holiday lighting program.

In response to a question from Councilmember Rawles, Mr. Verploegen advised that he was unaware of any clause that stated the lighting contract was "subject to" approval by the governmental entity.

Mr. Hutchinson stated that next year staff would provide the holiday lighting contract to the Council in July. He recommended that the Council proceed with the \$50,000 contract, and that a possible design change could be discussed with the contractor.

Mayor Hawker explained that he would prefer to cancel the contract, and he recalled that the Council discussed lighting only municipal buildings, and that private business owners would be responsible for their holiday lighting.

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that consideration of this item be continued to the September 6, 2005 Regular Council meeting.

Councilmember Thom suggested that the Main Street business owners be allowed to install their own holiday lights.

Vice Mayor Walters expressed a preference to extend decorations on the Main Street median areas within the \$50,000 budget allocation.

Councilmember Jones recalled that in the past, citizens were displeased when the City failed to fund the holiday lighting program.

Mr. Verploegen stated that possible changes would be discussed with the contractor, and that he would provide additional information to the Council at the September 6th meeting.

Mayor Hawker called for the vote.

Carried unanimously.

*8b. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Criminal Justice Commission to pay for equipment to improve the crime laboratory automated reporting system for laboratory results from criminal incidents in the City of Mesa – Resolution No. 8568.

*8c. Approving the Plans for the construction of the Crismon Business Park Special Improvement District No. 241 – Resolution No. 8569.

This project will install street improvements along portions of South Crismon Road, East Hampton Avenue and South Chesire Street.

The costs for the proposed improvements will be assessed to the adjacent property owners under the Special Improvement District Laws (1st of 3 Resolutions required).

*8d. Approving the Specifications and a Statement of Cost and Expenses for the construction of the Crismon Business Park Special Improvement District No. 241 – Resolution No. 8570.

This project will install street improvements along portions of South Crismon Road, East Hampton Avenue, and South Chesire Street. The costs for the proposed improvements will be assessed to the adjacent property owners under the Special Improvement District Laws (2nd of 3 Resolutions required).

*8e. Approving the Intention for the Crismon Business Park Special Improvement District No. 241 – Resolution No. 8571.

This project will install street improvements along portions of South Crismon Road, East Hampton Avenue, and South Chesire Street.

The costs for the proposed improvements will be assessed to the adjacent property owners under the Special Improvement District Laws (3rd of 3 Resolutions required).

*8f. Modifying fees and charges for the Parks and Recreation Division services – Resolution No. 8572.

*8g. Granting the sale of City property located at 2040 N. Sossaman Road – Resolution No. 8573.

*8h. Granting the sale of City property located at 650 N. 90th Street, and granting a temporary construction easement – Resolution No. 8574.

- *8i. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Police Officer Standards and Training Board (AZPOST) to pay for equipment to update firearms training for the City of Mesa Police Department – Resolution No. 8575.
- *8j. Approving and authorizing the City Manager to execute an Agreement between the Arizona Department of Public Safety and the City of Mesa for the purpose of obtaining two police bicycles with equipment for reduction of burglary activity – Resolution No. 8576.
- *8k. Approving and authorizing the City Manager to execute an Agreement between the Arizona Department of Public Safety and the City of Mesa for the purpose of obtaining a laptop computer with software tracking system for use toward the reduction of burglary activity – Resolution No. 8577.
- *8l. Approving and authorizing the City Manager to execute an Agreement between the City of Mesa and the Arizona Criminal Justice Commission (Crime Victim Assistance) to secure grant funds for salaries and fringe benefits for the City Prosecutor’s Office Victim Assistance Program assisting all crime victims – Resolution No. 8578.
- *8m. Extinguish a Drainage Easement at 1930 S. Vineyard Street. The easement is no longer necessary as the drainage area has been relocated to accommodate the proposed improvements and a new easement has been executed – Resolution No. 8579.
- 8n. Authorizing and directing the City Manager to execute necessary documents to acquire certain real property located at 221 West Vine Avenue – Resolution No. 8582.

City Attorney Debbie Spinner outlined the history of code compliance issues regarding the property. She advised that a 2004 Code Compliance investigation of a neighbor’s complaint determined that the property, owned by Luz and Maria Martinez, was in violation of City Code. Ms. Spinner reported that Code Compliance worked with Mr. Martinez, and that Mr. Martinez was receiving advice from legal representation at the time. She noted that when the Code violations remained unresolved after nine months, the case was referred to the City Prosecutor’s Office, which filed criminal charges against Mr. Martinez. Ms. Spinner noted that the City of Mesa’s goal is to encourage owners to clean up the property and bring the property into compliance. She advised that the negotiations with Mr. Martinez continued in order to accomplish that goal. Ms. Spinner stated that Mr. Martinez has three options: 1) Clean up the property, 2) Sell the property to a private party, and 3) Sell the property to the City of Mesa. She noted that all three options remain open to Mr. Martinez with regard to resolving the criminal case.

Ms. Spinner stated that recent newspaper articles reporting that Mr. Martinez is being forced to sell his property to the City in order to avoid criminal prosecution are completely inaccurate. She advised that the Prosecutor’s Office would not and could not take this type of action, because such an action would be inappropriate and unethical. Ms. Spinner explained that when a case is referred to the Prosecutor’s Office, that office conducts a separate and thorough investigation prior to filing criminal charges. She added that she personally met with Mr. Martinez, his attorney and other representatives of the City to ensure that all parties understood

that resolution of the criminal case was not tied to the sale of his property to the City of Mesa. She noted that the continuing goal is to bring the property into compliance.

Ms. Spinner stated that Mr. Martinez' attorney, Robert Gundacker, assured her that Mr. Martinez understood the issues, and that his research of the property revealed that the property has no easement with regard to access. She added that Mr. Gundacker advised that Mr. Martinez made an independent decision to sell the property to the City of Mesa. She noted that Mr. Martinez first raised the issue of selling the property to the City by approaching individuals in Neighborhood Services, after which the City arranged for an appraisal which was followed by the City's offer to purchase the property at the appraised value of \$88,000, which was accepted by Mr. Martinez. Ms. Spinner further stated that Mr. Gundacker assured her that Mr. Martinez understood that resolution of the criminal case is dependent on the property being brought into Code compliance, and that resolution is not dependent on Mr. Martinez selling the property to the City of Mesa.

In response to a request from Councilmember Rawles, Ms. Spinner explained the "Diversion Program" that would enable Mr. Martinez to resolve the criminal charges. She advised that the Diversion Program states that the City would not move forward with criminal charges provided that the property owner agrees to bring the property into compliance, agrees not to have any further code violations on property he owns in the City of Mesa for a specific period of time, and agrees to remain law abiding for a specific period of time. She added that if the property owner fails to meet any of these conditions, the criminal charges would move forward.

City Prosecutor John Pombier advised that buildings on Mr. Martinez' property were constructed without a building permit and that they do not comply with the City Code.

Mr. Gundacker, legal counsel for Mr. Martinez, advised that when the adjacent property was purchased by the Boys and Girls Club, access to Mr. Martinez' property was no longer available. He stated that his research indicated that no viable options were available to provide access to the property, and he advised Mr. Martinez that this fact decreased the value of his property. Mr. Gundacker further stated that discussions were ongoing regarding disposition of the property prior to criminal charges being filed. He also advised Mr. Martinez that regardless of the fact that the buildings were constructed prior to Mr. Martinez purchasing the property, Mr. Martinez is legally responsible because he is the present owner. Mr. Gundacker noted that the Code violations and the lack of access both contribute to the devaluation of the property. He said that after a thorough investigation, his legal advice to Mr. Martinez was that it would be in his best interest to sell the property to the City. He explained that by selling the property to the City, Mr. Martinez would not be responsible for closing costs or the cost to upgrade the buildings to City Code, and he may be eligible through the Federal government for some relocation costs. Mr. Gundacker stated that Mr. Palomino also conducted an appraisal of the property, which indicated a value of \$100,000, but the appraisal did not take into account the cost to address the Code violations and the lack of access to the property. He expressed the opinion that the best option available to Mr. Martinez is to sell the property to the City, and he stated that individuals who speak in opposition to the sale do not represent Mr. Martinez.

In response to a question from Mayor Hawker, Mr. Gundacker confirmed that Mr. Martinez is a willing seller of the property and that Mr. Martinez wants to sell the property to the City.

Responding to a question from Vice Mayor Walters, Mr. Gundacker stated that Mr. Martinez is not selling the property because he believes that the City has harassed him. Mr. Gundacker emphasized that Mr. Martinez is selling the property to the City because it is in his financial best interest to do so.

Mr. Gundacker noted that at a point in time, Mr. Martinez' contact with Code enforcement officers might not have been a pleasant experience, but that is irrelevant to the matter being considered. He stated that his legal advice to Mr. Martinez is that selling the property to the City would provide the greatest financial benefit.

Councilmember Thom said that she was present at the meeting held with Mr. Gundacker, his client, an interpreter, the City Attorney and other staff members. She questioned the statement that Mr. Martinez is truly a willing seller. She noted that a private buyer could purchase the property and clean it up.

Mr. Gundacker stated that a private party could purchase the property, but he recalled that a fact also discussed in that meeting was that a buyer with any type of professional representation would negotiate a lower price in order to address the clean up expense.

In response to a question from Councilmember Thom, Mr. Gundacker stated that the appraiser, Mr. Palomino, estimated that the clean up could cost as much as \$20,000.

Councilmember Thom expressed the opinion that Mr. Gundacker's statements were conjecture, and that Mr. Martinez' desire to sell the property to the City was a reaction to being cited for Code violations.

Responding to additional comments from Councilmember Thom, Mr. Gundacker confirmed that Mr. Martinez did not list the property with a real estate agent. He stated that the reason Mr. Martinez did not list the property was that based on the independent appraisal, he advised Mr. Martinez that his best option was to sell the property to the City. He also noted that Mr. Martinez considered selling the property for some time even though the property was not listed with an agent.

In response to a statement from Councilmember Thom that a neighboring property owner would probably grant Mr. Martinez a right-of-way to the property, Mr. Gundacker noted that in order to have permanent legal access, Mr. Martinez would have to purchase a permanent easement from all of the property owners.

Councilmember Thom stated that Mr. Martinez paid for a building permit and that this action indicated his good faith to bring the property into compliance.

Mr. Gundacker clarified that Mr. Martinez paid an application fee for a building permit when he learned that the structure on his property was built without a permit. He noted that when it was determined that a permit could not be issued, the City, although it was not required to do so, refunded the application fees to Mr. Martinez.

Councilmember Thom stated the opinion that the City is purchasing parcels in that area for a purpose of which she is not aware.

Mr. Gundacker responded that regardless of the City's motivation, it is Mr. Martinez' desire to sell his property to the City.

Councilmember Jones noted that records indicate that the property has been cited for numerous Code violations beginning in 1995. He added that Mr. Martinez was also cited for violations in 2000 and 2003, and that the property has a record of violations prior to being owned by Mr. Martinez.

Mayor Hawker advised that the Council now would hear from members of the public who wished to address the issue.

Speaking in opposition to the City's purchase of Mr. Martinez' property were the following citizens:

Florence Brinkerhoff, 229 South Pioneer
Christopher Glover, 466 South Pioneer
Marko L. Vandevier, 1005 East Garnet Avenue
J. T. Ready (no address provided)

Comments made by these citizens include the following:

- A private road does exist in the area.
- The City paid a higher price to wealthier property owners in the area than was paid to less affluent property owners.
- Mr. Martinez could sell his property for a million dollars in ten years if he retains ownership.
- The Code Compliance violations appear to have influenced Mr. Martinez' desire to sell.

Irene Pine, 744 South Morris, representing the individuals listed below, also expressed opposition to the City's purchase of Mr. Martinez' property:

Ed Field, 744 South Morris
Glory Robles, 629 South Morris

Ms. Pine's remarks included the following:

- Promises made to the Nuestro Neighborhood in conjunction with the preparation of the report titled "Land Use Options" (a copy is available for review in the City Clerk's Office) were broken by City staff members.
- Mr. Martinez told her that he could not accept Mr. Vandevier's offer to purchase because of the criminal charges filed against him by the City.
- An "Easement for Ingress and Egress" document exists (a copy is available for review in the City Clerk's Office) and Chicago Title Company is researching the easement at her request.
- The neighborhood does not want the affordable housing development proposed by the City because they believe the development will result in increased criminal activity.

The following individuals completed speaker cards indicating opposition to the purchase, but they did not wish to address the Council:

Melba W. Smith, 511 East 2nd Avenue
Eric Juengel (no address provided)
Ed Field, 744 South Morris
Glory Robles, 629 South Morris

Mayor Hawker stated that Mr. Martinez is not being forced to sell the property to the City, and he asked Mr. Gundacker to clarify his client's position.

Mr. Gundacker advised that the comments made in opposition to the City's purchase of Mr. Martinez' property do not represent the views of Mr. Martinez, and that Mr. Martinez is not being coerced to sell the property. He explained that Mr. Martinez speaks a little English, and that Mr. Palomino has served as an interpreter. Mr. Gundacker stated that at one point, Mr. Martinez was misinformed regarding the penalties for the Code violations, but he was able to provide Mr. Martinez with the correct information. He added that comments made in opposition to the sale reflect Mr. Martinez' fears prior to receiving the proper legal advice.

Mr. Pombier stated that as the City Prosecutor, his office has an ethical obligation to deal with the citizens of Mesa in a fair and just manner, and he assured the Council that this case has been handled in an ethical and just manner. Mr. Pombier further stated that Mr. Martinez and his attorney were advised on several occasions that the issue of the criminal charges and the sale of the property were two different issues. He added that he has not been approached by anyone in the community to discuss the issue, and that as the City Prosecutor, it would be unethical for him to discuss the facts of the case. Mr. Pombier noted that he is acquainted with Mr. and Mrs. Pine, and that they are aware of how to contact him. He stated that although he would not have discussed the facts of the case, he would have provided assurance that Mesa citizens are not prosecuted in order to obtain their property. Mr. Pombier added that he wanted the record of this meeting and any newspaper accounts of the meeting to reflect the correct information.

Mayor Hawker displayed an article that appeared in the East Valley Tribune, which misrepresented the facts of the case and his statements. He noted that a comment made by him in reference to a piece of property purchased by the City a few years ago was incorrectly referenced to the proposed purchase of Mr. Martinez' property. Mayor Hawker added that he specifically told the reporter that he did not care if the City purchased Mr. Martinez' property, and that if Martinez was not a willing seller, the City would not purchase the property. He expressed concern that the East Valley Tribune failed to provide a retraction when this misrepresentation was brought to their attention.

In response to a question from Vice Mayor Walters, Ms. Spinner confirmed that if the City purchases the property, there is no pre-determined use for the property.

Vice Mayor Walters stated that if the City acquires the land, the City could sell it to a third party and return the proceeds to the Home Investment Partnership Program (HOME). She added that the City's purchase of the property does not preclude implementation of one of the scenarios proposed by the neighborhood. Vice Mayor Walters said that the apparent erosion of trust between the neighborhood and the City should be addressed. She noted that Mr. Martinez

made a decision, with advice from a legal representative that he selected, to sell his property to the City.

It was moved by Vice Mayor Walters, seconded by Councilmember Whalen, that Resolution No. 8683 be adopted.

Councilmember Griswold noted that Federal dollars have been invested to improve the area, and that just because the property is purchased with HOME funds does not mean that homes have to be built on the property.

Councilmember Thom noted that this area is primarily industrial in nature, and that a residential development would be inappropriate. She questioned the status of the purchase contract that Ms. Pine said she submitted on behalf of Mr. Vandevier.

Property Acquisition Supervisor Craig Crocker advised the contract was forwarded to the City Manager's Office. He understood that the City Manager's Office e-mailed a reply to Ms. Pine indicating that the City was not entertaining offers to purchase the HOME properties at the present time.

In response to a question from Councilmember Thom, Ms. Spinner advised that the charges against Mr. Martinez were filed on June 7, 2005.

Councilmember Thom expressed the opinion that Mr. Martinez is not a willing seller, and that the City should sell some of the property it already owns. She noted that the City purchased the Lee Watkins property, consisting of 3.7 acres adjacent to Mr. Martinez' property, for approximately \$299,000. Councilmember Thom suggested that the issue be delayed in order to afford Mr. Martinez the opportunity to sell the property to a private individual.

Mayor Hawker requested that Mr. Gundacker address the issue raised by Councilmember Thom that Mr. Martinez is not a willing seller.

Mr. Martinez came forward, and with Mr. Palomino serving as the interpreter, Mr. Martinez confirmed that he was a willing seller.

Mayor Hawker also responded to Councilmember Thom's reference to the City's purchase of the Lee Watkins property for \$299,000 compared to the \$88,000 purchase price for Mr. Martinez' property, which is adjacent to the Watkins property. He noted that property is typically sold on a square foot basis, and that Mr. Watkins received \$1.98 per square foot while Mr. Martinez would receive \$6.42 per square foot.

Councilmember Thom directed her comments to Mr. Martinez and asked whether the filing of criminal charges influenced his decision to sell the property to the City.

Mr. Martinez, with translation assistance provided by Mr. Palomino, stated that he believed the sale of the property to the City was in his best interest.

Mayor Hawker directed his comments to the interpreter and asked what else was said regarding the matter.

Mr. Palomino advised that Mr. Martinez stated that regardless of the charges filed, he would like to sell the property to the City.

Mayor Hawker noted that his understanding of Mr. Martinez' response was that he would sell the property to the City even if criminal charges had not been filed.

Mr. Palomino confirmed that the Mayor's understanding of Mr. Martinez' response was correct.

Mayor Hawker suggested that if Councilmember Thom was not satisfied with the response, that she directly address Mr. Martinez and ask her question.

Councilmember Thom asked Mr. Martinez if there were no code violation charges or criminal charges, would he still want to sell his property to the City.

Mr. Palomino translated Mr. Martinez' response as follows: "He's stating that the reason why he's choosing to sell the property is because he's lost trust in the order of operation that the City of Mesa is carrying out."

Mayor Hawker asked if Mr. Martinez would like the City to void the contract and not purchase his property.

Mr. Palomino translated Mr. Martinez' comments as follows: "He wants to sell it to the City of Mesa. He would like to sell, but if the City of Mesa is interested, he's obviously interested in selling to the City of Mesa."

Councilmember Rawles expressed the opinion that the City should not participate in Federal housing programs. He stated that he does not plan to support the motion, but he is not opposing the purchase because of any reason presented at this meeting. Councilmember Rawles stated the opinion that the reason that the item has required a significant amount of time during this Council meeting is that City government is involved in an inappropriate area, which has resulted in a breakdown of trust. He noted that consideration of this topic has resulted in one Councilmember inappropriately cross-examining another during a Study Session, and a public official attempting to undermine the attorney/client relationship during the sensitive negotiations of a criminal case. Councilmember Rawles stated that it is no one's business how Mr. Martinez intends to resolve his criminal case. He noted that his primary concern was whether the purchase of the property was in the best interest of the City of Mesa. He added that this type of purchase is indicative of the negative impact of government interference in the day-to-day lives of citizens.

Councilmember Jones noted that there is disagreement within the Nuestro Neighborhood regarding plans for the area. He stated that he has visited successful home ownership projects in many cities. Councilmember Jones expressed concern that some individuals continue to misconstrue the actions of the City in order to create the impression that improprieties exist. He urged the members of the Nuestro Neighborhood to work together.

Councilmember Griswold expressed the opinion that many of the neighborhood problems result from the fact that the City of Mesa does not have a slum landlord law.

Vice Mayor Walters noted that Code Compliance has assisted the Nuestro Neighborhood in maintaining the area. She explained that HOME dollars are Federal funds that area targeted to provide assistance to neighborhoods. Vice Mayor Walters expressed concerns that comments made during tonight's meeting were intended to cripple the Code Compliance function.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8582 adopted.

Councilmember Rawles requested that the record of the meeting reflect that the reasons for his opposition to the motion were completely different from the reasons expressed by Councilmember Thom.

- *8o. Authorizing and directing the City Manager to execute an agreement between the Arizona Department of Public Safety and the City of Mesa for the purpose of obtaining Financial Investigations Resource Grant (FIRG) funds – Resolution No. 8580.

9. Consider the following ordinances:

- *9a. Amending Section 10-3-25 of the Mesa City Code by amending sanctions for vehicles parked in violation of City ordinance, and increasing the amount of days to respond to the violation notice; and providing penalties for the violation thereof – Ordinance No. 4444.

10. Consider adopting a Notice of Intention to adjust Fire and Public Safety Development impact fees and establishing November 7, 2005 as the date for the public hearing.

Lauren Barnett, 3200 East Camelback Road, representing the Home Builders Association of Central Arizona, expressed appreciation to City staff for meeting with their association to discuss the proposed impact fee adjustments. She noted that their membership does not oppose impact fees, but they will study the proposal.

It was moved by Councilmember Thom, seconded by Councilmember Rawles, that the Council adopt the Notice of Intention to adjust Fire and Public Safety Development impact fees and that November 7, 2005 be established as the date for the public hearing.

Upon tabulation of votes, it showed:

AYES – Hawker-Griswold-Jones- Rawles-Thom-Whalen
NAYS – None
* ABSENT – Walters

Mayor Hawker declared the motion carried unanimously by those present.

* Vice Mayor Walters was temporarily excused from the Council Chambers at the time of the vote.

*11. Consider write-off of utility and miscellaneous accounts in the amount of \$265,848 (0.31%).

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

12a. **Z05-65 (District 6)** The 2850 to 2900 block of South Power Road (east side). Located north and east of Guadalupe Road and Power Road (2.3 ac ±) Rezone from R1-7 (conceptual C-2) to C-2 and Site Plan Review. This request is to allow for the development of a gas station with a convenience store. Karl Kohlhoff, owner; Craig Boswell, applicant – Ordinance No. 4453. (*Held neighborhood meeting and contacted registered neighborhoods*).

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

Charles Huellmantel, an attorney with Withey Anderson & Morris, addressed the Council on behalf of the applicant. He advised that staff and Planning and Zoning recommend approval.

Tony Malaj, 7426 East Naranja Street, representing the Superstition Springs Community Master Association, stated opposition to the project. He provided a summary page of his comments (see Attachment) that outlines the concerns of the residents.

The following individuals also spoke in opposition to the project and noted concerns similar to those presented by Mr. Malaj:

Steve Haynes, 6860 East Milagro Avenue
Garrett Newland, 6837 East Mirabel Avenue
Steve Thompson, 6861 East Mirabel Avenue

Mr. Huellmantel noted that the QuikTrip site plan has been modified to meet the concerns of Maricopa County and the City of Mesa. He noted that QuikTrip offers a different product than the gas station located on the corner, and he expressed the opinion that competition is not an issue for concern.

Planning Director John Wesley confirmed that the area is designated for commercial use and P&Z determined that the use is appropriate for the location. He noted that the Citizen Participation Report is included in the Council Report, and he stated that all City requirements

for public notification have been met. Mr. Wesley advised that both staff and the Planning and Zoning Board recommend approval.

In response to a question from Councilmember Jones, Mr. Huellmantel stated that 145 letters were mailed to residents within 1,000 feet of the entire site.

Councilmember Jones expressed concern that residents did not oppose the project at the P&Z hearing.

Mr. Huellmantel advised that a letter was mailed to the homeowners' association. He noted that their records indicate three of the residents present tonight were also present at the initial neighborhood meeting.

It was moved by Councilmember Rawles, seconded by Councilmember Whalen, that Ordinance No. 4453 be adopted.

Mayor Hawker noted that Power Road is a major arterial that was constructed to accommodate traffic. He expressed the opinion that the QuikTrip would not increase traffic for the neighborhood, but he added that the median cut that allows access to the QuikTrip could pose a problem.

Councilmember Thom advised that she would have met with the homeowners' association if she had been invited. She stated that she called a number of residents who were listed as being opposed to the project. Councilmember Thom said that the residents she contacted indicated that traffic was the major area of concern.

Vice Mayor Walters explained that competition is not an issue that could be addressed by the Council, and she noted that QuikTrip has been very cooperative in addressing issues in the past. Vice Mayor Walters thanked the residents for participating in the process.

Mayor Hawker called for the vote.

Carried unanimously.

- *12b. **Z05-70 (District 6)** The 11200 to 11600 block of East Ray Road (north side) and the 4800 to 5200 block of South Meridian Road (west side) and the 5000 to 5200 block of South Mountain Road (east side). Located north and east of Ray Road and South Mountain Road (99+ ac.). Rezone from R1-35 to R1-6 and R1-9 and site plan review. This request is to allow for the development of a single-residence subdivision. Nyssa Land Company, Inc (Paul R. Skogebo), owner; Nyssa Land Company, Inc (John Poulsen), applicant – Ordinance No. 4445. (*Held neighborhood meeting and contacted registered neighborhoods and homeowners associations*).

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

- *12c. **Z05-71 (District 6)** The 7200 to 7300 block of East Baseline Road (south side). Located east and south of Superstition Springs Boulevard and Baseline Road (6± ac.). Rezone from C-2 to C-2 PAD and Site Plan Review. This request is to allow for the development of retail/office condominiums. Boyd Anderson, owner; Randolph Carter, Dream Catchers, applicant – Ordinance No. 4446. (*Contacted registered neighborhoods and homeowners associations*).

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

- *12d. **Z05-72 (District 5)** The 3500 to 3600 blocks of North Power Road (west side). Located on the southwest corner of Power Road and Thomas Road (6.13±). Rezone from C-2 to C-2 PAD and Site Plan Modification. This request is to allow for the development of an office condominium project with limited commercial uses. Philip L, Ellis and David C. Ellis, owner; Craig Cote & Steve Bauer – Shea Commercial, applicant – Ordinance No. 4447. (*Held neighborhood meeting and contacted registered neighborhoods and homeowners associations*).

P&Z Recommendation: Approval with conditions. (Vote: Passed 6-1 with Langkilde nay)

- *12e. **Z05-74 (District 6)** The 3600 to 4200 blocks of South Mountain Road (west to the Signal Butte Road alignment), excluding Gilbert School site (parcels 304-33-003B/C). Located south and west of Elliot and Mountain Roads (225 +/- ac). Site Plan Review and Rezone from R1-43 and R1-9 to R1-6 PAD, R1-7 PAD, and R1-9 PAD all within a Development Master Plan overlay. This request is to allow development of a residential community known as Nova Vista. GBGM 240 Limited Partnership LLLP (William Ring), owner. US Homes, applicant – Ordinance No. 4448. (*Held neighborhood meeting and contacted homeowners associations*).

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

- *12f. **Z05-75 (District 5)** The 150 to 250 block of North 67th Street (west side). Located west and north of the northwest corner of Main Street and Power Road (6.3 acres). Rezone from Maricopa County R-3 RUPD to City of Mesa R1-6 PAD. This case involves the establishment of City zoning on recently annexed property. Desert Cove Subdivision Property Owners, owner; Associated Asset Management Company, applicant – Ordinance No. 4449.

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

- *12g. **Z05-76 (District 5)** The 50 to 150 block of North 65th Street (east side). Located west and north of the northwest corner of Main Street and Power Road (6.7 ac.). Rezone from Maricopa County R-3 RUPD to City of Mesa R1-6 PAD. This case involves the establishment of City zoning on recently annexed property. Apache Cove Subdivision Property Owners, owner; Associated Asset Management Company, applicant – Ordinance No. 4450.

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

- *12h. **Z05-77 (District 6)** The 10800 to 10840 block of East Apache Trail (south side). Located at the southeast corner of Apache Trail and Signal Butte Road (1± ac.). Site Plan Review. This request is to allow for the development of a single-story retail stop building. Geoff Jacobs, owner; Mark A. Bowker, applicant – Ordinance No. 4451. *(Contacted registered neighborhoods, homeowners associations, and businesses).*

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

- *12i. **Z05-78 (District 5)** The 4320 to 4400 block of East Presidio Street (north side). Located north and west of McDowell Road and Greenfield Road (2.75 ac.). Rezone from M-1 to M-1 PAD. This request is to allow for individual ownership of condominium suites inside industrial buildings. H-B Dover/Office, L.L.C. By: Hewson Development Corporation – David E. Lord, owner/applicant – Ordinance No. 4452.

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

- 12j. **Z05-79 (District 5)** The 2600 to 2700 block of North Power Road (east side). Located south of the southeast corner of McDowell Road and Power Road (15.8± ac.) Rezone from R1-35 DMP to R-3 PAD and C-1 PAD, Site Plan Review. This request is to allow for the development of retail/office buildings and residential condominiums. Power and McDowell, LLC (Edwin Gutzman), owner; Martin Hazine of HGN, LLC, applicant – Ordinance No. 4454. *(Held neighborhood meeting and contacted registered neighborhoods and homeowners associations)* COMPANION CASE GPMInor05-04.

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

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that Ordinance No. 4454 be adopted.

Carried unanimously.

13. Consider the following subdivision plats:

- *13a. "SUNLAND SPRINGS VILLAGE UNIT SIX", - (Council District 6) – 10800 block of East Guadalupe Road (south side) located east and south of Signal Butte Road and Guadalupe Road. 175 R1-6 DMP single residence lots (44.9 ac.) Transnation Title Insurance Company, trustee; Clouse Engineering, Inc., engineer.
- *13b. "BAYWOOD PROFESSIONAL PLAZA OFFICE CONDOMINIUMS", - (Council District 5) – 6100 block of East Arbor Avenue (north side) located south and east of Main Street and Recker Road. 4 C-2 PAD office condominium units (4.59 ac.) Baywood Professional Plaza Condominium L.L.C., Michael Hamberlin, owner; Evans, Kuhn, & Associates, Inc., engineer.

14. Items from citizens present.

Laura Henry, 536 North Hall, addressed the Council regarding criminal activity in her neighborhood.

15. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:46 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 29th day of August 2005. I further certify that the meeting was duly called and held and that a quorum was present.

BARBARA JONES, CITY CLERK

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Attachment

Mayor and Council Comments
City of Mesa
Council Meeting -- August 29, 2005

Attachment

Superstition Springs Community Master Association has 2,358 homes, 5,000 residents, and 2,763 commercial votes representing 221 active businesses. Our association operates under the direction of a five member board of Directors of which I am the President. At the request of the membership, our board called a special meeting on Friday, August 26th 2005 to discuss the possible approval of the Quick Trip Development (**Z05-65**) proposal before you tonight.

1. As far as we know, 3 notices were given:
 - 1st notice - November 30, 2004 - Concerning a Dec. 9th 2004, public meeting
 - 2nd notice - May 10, 2005 - Residents within 300 ft.
 - 3rd notice -Wednesday, August 24th, 2005 of last week - Invitation to September 7, design review board meeting.
2. Special Meeting of the SSCMA Board of Directors called to address this issue Friday August 26th, 2005
3. Petitions showed 120+ Residents opposed this project, no residents showed in favor!
4. Residents concerns brought to the HOA board of Directors:
 - A. Traffic Safes Concerns - Traffic is very heavy and dangerous, still awaiting a signal light on Monterey and Power, traffic flow narrows down at Guadalupe.
 - B. Location - Right next door to an existing gas station, QT maintains that the existing service station performs different services, regardless it generates traffic.
 - C. Supply and Demand - QT maintains this area is under served, we don't have lines of people waiting at our current stations!
 - D. Timeliness of notification to HOA (outside the 300 ft.) this late in the process.

Yet, this is not the first time these development issues have occurred and we've been notified post mortem. Regardless if City of Mesa requirements are met for notifying, someone should be tracking and keeping residents informed even if the impacts are somewhat indirect like a waste transfer station or a freeway; or in this case a direct impact such as this Quick Trip gas station on a major arterial just feet from an existing gas station.

Appearing at our HOA meetings and developing relationships with residents and business owners could prevent miscommunications with Superstition Springs. My wife had to be the one who petitioned for a traffic signal on Power Rd. A resident had to be the one to bring this QT issue forward.

****Speaking for the membership, we believe this is a good project in a bad location and we're opposed to it.**

*****Speaking as a Mesa resident, I believe we have great location, just a poor councilmember.**

As a resident of Mesa I am concerned about our representation on City Council. If our councilmember was as interested in our community as she was with the Riverview project these oversights might not happen.