



COUNCIL MINUTES

November 3, 2008

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on November 3, 2008 at 5:45 p.m.

COUNCIL PRESENT

Mayor Scott Smith
Alex Finter
Dina Higgins
Kyle Jones
Dennis Kavanaugh
Dave Richins
Scott Somers

COUNCIL ABSENT

None

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Linda Crocker

Invocation by Councilmember Finter.

Pledge of Allegiance was led by Scout Evan Alder, Troop #995.

Mayor's Welcome.

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

Presentation of Historic Preservation Awards.

Mayor Smith introduced Jared Smith, Chairman of the Historic Preservation Committee, who thanked the Mayor and Council for the opportunity to announce the 2008 Historic Preservation Awards.

Mr. Smith said that Earl Merrill is the recipient of an Activism and Lifetime Contribution Award for researching and documenting a large amount of Mesa's history in more than 500 stories. David Merrill accepted the award from Mayor Smith on behalf of his father.

Councilmember Kavanaugh, former Chairman of the Mesa Historical Society, announced that Dr. Jerry Howard, Curator of Anthropology at the Arizona Museum of Natural History, was also selected to receive an Activism and Lifetime Contribution Award. He cited Dr. Howard's extensive work at the Mesa Grande Ruins in addition to identifying historic sites in Mesa and throughout Arizona for preservation. Mayor Smith presented the award to Dr. Howard.

Victor Linoff, a former Chairman of the Historic Preservation Committee, announced that Lisa Anderson, President of the Mesa Historical Society, is a 2008 award recipient for orchestrating a dramatic turnaround in the Mesa Historical Museum, developing innovative educational programs and increasing attendance at the Annual Mesa Historical Home tour. He noted that Ms. Anderson was unable to be present to accept the award.

Ron Peters, a former member of the Historic Preservation Committee, announced that Mesa Public Schools is the recipient of an award for the successful preservation of the Irving School. Mike Hughes, a member of the Governing Board, accepted the award on behalf of Mesa Public Schools.

Mayor Smith extended congratulations to the all of the award recipients on behalf of the Council.

Members of Scout Troop #995 acknowledged the Mayor and Council as honorary members of their troop by presenting each Councilmember with a T-shirt.

1. Take action on all consent agenda items.

All items listed with an asterisk (*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

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

Carried unanimously.

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

Minutes of the April 24 and October 20, 2008 Council minutes.

3. Take action on the following liquor license application:

*3a. Nando's Mexican Cafe

New Restaurant License for Nando's Mexican Cafe, 6715 E. McDowell Road, Suite #101, Nando's of Mesa LLC. – Timothy Michael Shaughnessy, Agent. This is new construction with no previous liquor license at this location **(District 5)**.

4. Take action on the following contracts:

*4a. Three-year supply contract for Magnesium Anodes for warehouse inventory (Utilities, Gas Division).

The Procurement Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Corpro Companies at \$78,092.88 annually, including applicable sales tax, based on estimated requirements.

- *4b. Three-year supply contract for yellow LED modules for warehouse inventory (Transportation).

The Procurement Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Phoenix Highway Products at \$43,449.96 annually, including applicable sales tax, based on estimated requirements.

- *4c. Dollar limit increase to the supply contract for residential refuse and recycling containers for the Solid Waste Department.

The Procurement Services Department recommends increasing the dollar limit of the contract with Rehrig Pacific by \$111,151.94 to \$675,671.71 for the remainder of this contract, based on estimated requirements.

- *4d. One-year renewal supply contract for automotive lubricant and oil products for Fire (Vehicle) Maintenance and the Fleet Services Department.

The Procurement Services Department recommends authorizing purchase from the State of Arizona contract with Brown/Evans Distributing Company at an estimated \$229,000.00 annually.

- *4e. Robin Lane Waterline Replacement, City of Mesa Project No. 01-557-006 (**District 2**).

This project will install 1,400 linear feet of new 8-inch ductile iron pipe (DIP) and will replace all existing water meters. All existing water services and fire hydrants will be replaced.

Recommend award to the low bidder, R.K. Sanders, Inc., in the amount of \$142,475.00 plus an additional \$14,247.50 (10% allowance for change orders) for a total award of \$156,722.50. Funding is available in the FY 08/09 Water Capital Bond Program.

- *4f. Excess Liability Insurance.

Recommend purchase of Excess Liability Insurance from Insurance Company of the State of Pennsylvania/AIG Insurance for \$10,000,000 liability coverage in excess of the City's \$2,000,000 Self-Insured Retention (SIR). The cost of this policy is \$411,166.

Recommend purchase of 2nd layer excess liability insurance from Great American Assurance Company for an additional \$25,000,000 in liability coverage. The cost of this policy is \$252,200.

The total combined award is \$663,366.

- *4g. Property Insurance.

Recommend purchase of Property Insurance from Allianz Global with coverage of \$200,000,000 per occurrence with a \$50,000 deductible. This includes coverage for Boiler & Machinery. The cost of this policy is \$205,807.

*4h. Aviation Insurance.

Recommend purchase of Airport Liability Insurance from National Union Fire Insurance Company of Pittsburgh PA (AIG) with \$0 SIR and \$50,000,000 per occurrence coverage. The cost of this policy is \$15,758.

Recommend purchase of Aircraft Hull and Liability Insurance from National Union Fire Insurance Company of Pittsburgh PA (AIG) at an annual premium of \$98,545.

The total combined award is \$114,303.

5. Take action on the following resolutions:

*5a. Approving and authorizing the City Manager to execute an Amendment to an Intergovernmental Agreement (IGA) between the Maricopa County Department of Transportation and the City of Mesa for the operation, maintenance and future capital improvements for Ellsworth Road from Warner Road to Elliot Road. The estimated annual operation and maintenance cost for this section of roadway is \$23,000 – Resolution No. 9378 (**District 6**).

*5b. Granting an Overhead Power Distribution Easement to Salt River Project on City-owned property at 7002 South Sossaman Road – Resolution No. 9379 (**District 6**).

This easement is necessary to provide electrical facilities and power to the water utility facilities at this location.

*5c. Granting a Power Distribution Easement to Salt River Project on City-owned property at 9802 East Elmwood Street – Resolution No. 9380 (**District 5**).

This easement is necessary to provide electrical facilities and power to the water utility facilities at this location.

*5d. Approving and authorizing the City Manager to execute a Memorandum of Understanding between the City of Tempe, Valley Metro Rail, Inc., and the City of Mesa providing for the security of the METRO light rail system and Sycamore park-and-ride facility – Resolution No. 9381 (**District 3**).

*5e. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the State of Arizona, Department of Public Safety and the City of Mesa for reimbursement of 75% of officer's salary assigned to the Arizona Vehicle Theft Task Force – Resolution No. 9382.

*5f. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in the amount of \$280,640 to improve security at the Communications Building and Police Headquarters – Resolution No. 9383.

*5g. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in

- the amount of \$8,000 for equipment and training for the Police Department's Terrorism Liaison Officer Program – Resolution No. 9384.
- *5h. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in the amount of \$20,000 for equipment and training for a Terrorism Liaison Officer – Resolution No. 9385.
 - *5i. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in the amount of \$56,905 for equipment for the Police Department's Explosive Ordnance Device Team – Resolution No. 9386.
 - *5j. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in the amount of \$270,000 for equipment and training for the Police Department's Rapid Response Team – Resolution No. 9387.
 - *5k. Approving and authorizing the City Manager to execute a Grant Agreement between the Arizona Department of Homeland Security and the City of Mesa to secure grant funds in the amount of \$58,333 for equipment for the Police Department's Tactical Response Team – Resolution No. 9388.
 - *5l. Approving and authorizing the City Manager to execute an Intergovernmental Agreement to update the participation process, duties of the parties and management of the East Valley Gang and Criminal Information Fusion Center – Resolution No. 9389.
 - *5m. Amending Resolution 9148 regarding a Memorandum of Understanding with Immigration and Customs Enforcement to provide one detective to the Immigration and Customs Enforcement Task Force – Resolution No. 9390.
 - *5n. Approving and authorizing the City Manager to execute a Memorandum of Understanding with Immigration and Customs Enforcement for reimbursement up to \$15,000 per year for officer assigned to the Immigration and Customs Enforcement Task Force – Resolution No. 9391.
 - *5o. Approving and authorizing the City Manager to execute a Task Force Agreement between the Drug Enforcement Administration and the City of Mesa for reimbursement up to \$16,328.57 per officer for three officers assigned to the task force – Resolution No. 9392.
 - *5p. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Health Services and the City of Mesa for the use of a Base-X System (tent system to be used during hospital surge or other situations that may call for climate controlled sheltering) – Resolution No. 9393.
 - *5q. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Tempe and the City of Mesa to accept RadEye PRD pocket-size personal radiation detectors – Resolution No. 9394.

- *5r. Approving and authorizing the City Manager to execute a North American Energy Standards Board Base Contract and Transaction Confirmation for supplies of natural gas and an Associated Services Agreement for gas supply and transportation administration, and the Base Contracts and Transaction Confirmations for supplemental supplies of natural gas – Resolution No. 9395.

6. Introduction of the following ordinances and setting November 17, 2008, as the date of the public hearing on these ordinances:

- *6a. **A06-26 (District 5)** Annexing land located south of Thomas Road and east of Hawes Road (11.07± acres). Initiated by Reese Anderson, Pew & Lake, PLC representing the property owner.

Staff Recommendation: Approval.

- *6b. **A07-26 (District 5)** Annexing land located north of Adobe Road and west of Crismon Road (1.07± acres). Initiated by the property owner, John Webster.

Staff Recommendation: Approval.

- *6c. **A07-37 (District 6)** Annexing land located south of Main Street and east of Sossaman Road (0.21± acres). Initiated by the property owner, Susan C. Dillman.

Staff Recommendation: Approval.

- *6d. **Z08-63 (District 5)** The 2800 to 3100 blocks of North Higley Road (east to Recker Road) and the 3200 to 3300 blocks of North Recker Road (west side). Located north of McDowell Road between Higley Road and Recker Road. (313.42± acres). Modification of the Longbow Business Park and Golf Club Development Master Plan (313.42± acres). Rezone from M-1 DMP and M-1 DMP (Conceptual BIZ) to C-2 DMP (Conceptual BIZ) (49.08± acres). This request will modify the existing Development Master Plan to reconfigure the zoning to align with the approved subdivision plat and allow for future commercial and employment uses. Associates, LLC, Robert M. McNichols, managing member, owner; Sean Lake, Pew and Lake, PLC, applicant - . ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

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

- *6e. **Z08-64 (District 6)** 5460 South Mountain Road. Located South of Ray Road and east of Signal Butte Road (62± acres). Rezone from R-2 PAD DMP to R1-9 PAD DMP and Modification to the Mountain Horizons Development Master Plan. This request will allow for the development of a single residential subdivision. Pulte Homes, Tim Loughrin, owner; Ralph Pew, Pew & Lake, PLC, applicant. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

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

- *6f. Amending Section 11-6-3 of the Zoning Ordinance. The amendment proposes minor wording revisions to clarify language used to describe standards and evaluation criteria related to land uses requiring Council Use Permits in the C-1, C-2, and C-3 zoning districts.

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

7. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that wants to provide comment should submit a blue card to the Clerk before the item is voted on. If a citizen wants to comment on an item listed with an asterisk (*), a blue card must be given to the Clerk before Council votes on the consent agenda.

- *7a. Amending the Mesa City Code by adding Title 12, Chapter 1 establishing general regulations relating to public transit vehicles necessary for the introduction of light rail transit service in the City – Ordinance No. 4889.
- *7b. **A07-07 (District 6)** Annexing land located north and west of Southern Avenue and Ellsworth Road (1.12± acres). Initiated by the property owner, James A. Ford. **(Continued from the August 18, 2008 and October 20, 2008 Council meetings)** Staff Recommendation: Denial. (Consent Agenda: For Denial) **WITHDRAWN BY APPLICANT.**
- *7c. **A07-33 (District 6)** Annexing land located north and west of Southern Avenue and Ellsworth Road (3.36± acres). Initiated by one of the property owners, Stephen J. Hagerman – Ordinance No. 4890. **(Continued from the August 18, 2008 and October 20, 2008 Council meetings)** Staff Recommendation: Approval (Consent Agenda: For Approval).

8. Take action on the following subdivision plat:

- *8a. “THE VILLAS AT MONTANA VISTA” **(District 5)** 7800 block of East University Drive (south side) located south and east of University Drive and Sossaman Road. 145 R1-6 PAD single residence lots (25.21 acres), Eightieth & University, LLC, James F. Runner, president, owner; Jeff Giles; Clouse Engineering, Inc., engineer.

9. Take action on the following resolutions and ordinances introduced at a prior meeting regarding the Mesa Proving Grounds:

Mayor Smith explained that items 9a and 9b require a 2/3 vote according to the Statutes and therefore, these items will be considered separately. He advised that items 9c through 9i would be considered in one motion and that item 9j would be considered as a separate item.

Mayor Smith announced that a number of individuals have requested the opportunity to address the Council, and he noted that because all items under agenda item 9 are related to the Mesa Proving Grounds, all speakers would be heard prior to the Council considering these items. He advised that the first speaker would be Grady Gammage, Jr., on behalf of the applicant.

Grady Gammage, Jr., an attorney with Gammage and Burnham representing DMB, addressed the Council regarding the development. He noted that the 3,000 acre property, which was an

aging industrial facility outside of the City of Mesa, is proposed to be transformed into a center of regional importance within the City of Mesa. Mr. Gammage noted that the annexation of the property is on this agenda, and he provided City Clerk Linda Crocker with the completed DMB annexation petition (the petition is on file in the Planning Department).

Mr. Gammage said that the vision represented in the documents being considered by the Council is the result of community input and public dialogue. He displayed a PowerPoint presentation (a copy is available for review in the City Clerk's Office), and he noted that two caveats were identified early in the planning process: 1) that protection and development of the Phoenix-Mesa Gateway Airport was of supreme importance to the community; and 2) that job creation was a critical issue. Mr. Gammage listed many of the key components in the development of a "center of regional importance," such as a great park, linkages within the site that provide access to the park, an urban core attached to residential development, special neighborhoods, executive housing, an early retail presence and an early lodging opportunity. He said that this plan would enable the area to develop at a higher level than what was envisioned in the General Plan.

Mr. Gammage stated that a catalyst was required in order to initiate a quality development, and he noted that when Gaylord contacted the City regarding their interest in the area, City officials referred Gaylord to DMB. He said that this led to the extraordinary partnership between Gaylord and DMB, which then enabled DMB to position another resort opportunity and a golf course in the northwest core. Mr. Gammage reported that the approach to implementation evolved into a Planned Community Development (PCD) approach that blends with form-based zoning, and he further stated that the City of Mesa is now at the cutting edge in the State of Arizona with this type of zoning technique, which focuses on the character and quality of the use rather than the particular land use. He advised that two of the development agreements deal with the traditional public/private sector agreement issues regarding infrastructure and vested rights. Mr. Gammage said that the "resort core" development agreement requires a 2/3 vote by the Council on 9a and 9b. He explained that a March 2009 election would be scheduled in order to address Section 613 of the City Charter regarding tax incentives and the convention center. Mr. Gammage explained that the bed tax generated by Gaylord and the second resort would be utilized to market the Gateway area rather than the entire City and that a convention center is included in the development. He also advised that a GPLET (Government Property Lease Excise Tax), a mechanism in State Statutes that creates a property tax incentive for properties with challenges, would be utilized to address the \$15 to \$20 million cost for environmental remediation of the property.

Mr. Gammage reported that an extensive community outreach was conducted, which included mailing 28,000 letters to area residents and holding meetings that were attended by thousands of people. He noted that an overwhelming majority of those attending the meetings have been very supportive of the project, and he added that the applicant has staff present to answer any questions that the Council might have.

In response to a request from Mayor Smith, Mr. Gammage explained that GPLET is an excise tax that is imposed on property that is titled to a city or municipality, but is utilized by a private entity for purposes such as offices, retail, or hotels. He stated the tax imposed is based on various factors, such as the geographic location and the type of use on the property. Mr. Gammage added that the tax is fixed at a certain point and then declines over a period of time. He said these taxes are set by a statutory formula which is less than property taxes, but the revenues are distributed in the same manner.

Mayor Smith noted that the taxing districts, such as the Gilbert School District, would receive revenues from the GPLET in a manner similar to revenues generated by a property tax. He added that Mesa's share would be seven percent.

Responding to a question from Councilmember Richins, Mr. Gammage advised that many other projects in the Valley utilize a GPLET, such as Renaissance Square, the Arizona Center, the Phelps Dodge building, and the U.S. Airways buildings in Phoenix, the SunCorp buildings along Tempe Town Lake, and the Cabela's store in Glendale.

Mayor Smith stated that a number of people requested the opportunity to address the Council.

The following individuals addressed the Council in support of agenda item 9:

Lynn Strang, representing the Mesa Baseline Rotary
Charlie Deaton, representing the Mesa Chamber of Commerce
Jack Sellers, 1902 West Peninsula Circle, Chandler
W. W. (Bill) Thompson, 2748 South Cholla Circle
Lynn Kusy, Executive Director of the Phoenix-Mesa Gateway Airport
Rustyn Sherer, representing the Queen Creek Chamber of Commerce
Robert Brinton, representing the Mesa Convention & Visitors Bureau
*Deanna Becker, 2203 South Boca
Carl Cole, 3700 South Ironwood Drive, Apache Junction
Bryan Hubbard, 2650 South Willow Wood

*Petitions submitted by Ms. Becker in support of the project are on file with the City Clerk's Office.

Comments made in support of the project include the following:

- The project will generate many high-wage jobs.
- The proposed development has a high level of potential.
- The project provides the type of economic development needed by the City.
- The Phoenix-Mesa Gateway Airport will benefit from the project.
- The East Valley and the entire Region will realize long-term economic benefits.
- The Phoenix-Mesa Gateway Airport area will become a hub of economic activity.

Vice Mayor Jones read into the record the names of individuals who submitted speaker/comment cards in support of agenda item 9, but indicated that they did not wish to address the Council:

Michael Young, 1855 North Stapley Drive
Nadine Becker, 2203 South Boca
Robert F. Kammerle, 7600 East Doubletree Ranch Road, Scottsdale
De Bowles, 854 East Baylor Lane, Gilbert
Charley Freericks, 7600 East Doubletree Ranch Road, Scottsdale
Daryl & Theresa Hasenvonkel, 2918 East Fountain Street
Thomas & Tracie Whitley, 903 East Huber Street
Brian Campbell, Chair of the Mesa Economic Development Advisory Board
Jeffrey M. Denzak, 7550 East McDonald Drive, Scottsdale
Trevor Barclay, 728 West 9th Street
Tom Lucas, 25440 North 21st Street, Scottsdale

Jeff Janos, 5045 North 12th Street, Phoenix
Jared Langkilde, 4228 East Hope Street
Steve Chucri, 3729 East Northridge Circle
Matthew Law, 640 West Frito Avenue
Mike Sutton, 3275 East Camelback, Phoenix
Brent Moser, 2375 East Camelback, Phoenix
Roc Arnett, President of the East Valley Partnership
Jim Zaharis (no address provided)
R. Burnham, 5121 North 34th Place, Phoenix

Vice Mayor Jones read a letter of support (a copy is available for review in the City Clerk's Office) that was received from Paul E. Gilbert, representing the law firm of Beus Gilbert.

Mayor Smith called on individuals who wished to address the Council in opposition to the development:

Michael Hitchcock, 714 North Windsor, expressed the opinion that the City of Mesa has a poor record of accomplishment with regard to large development projects. He said that he recognized the great potential of this project, but he suggested that the City should approach this effort realistically.

Thomas C. Schuelke, 7604 East Wolf Canyon, stated the opinion that the agreement referenced in item 9a does not conform to the requirements of the Arizona Revised Statutes. He stated that the City would be agreeing to give away revenue in excess of revenues received. Mr. Schuelke referred to item 9b and said that the Arizona Constitution prohibits gifts to corporations. He further stated the opinion that the City of Mesa has attempted to "exploit loopholes" in the law in order to circumvent the prohibition of tax incentives, and he urged the Council to vote in opposition to the agenda item.

Hal Goldfarb, 105 South 97th Street, said that his concern related to the availability of high-wage jobs and sustainable employment opportunities. He requested information on the types of jobs that would be generated by the project.

Mr. Gammage responded to a comment made by Mr. Hubbard regarding alternatives that might be available if the bed tax agreement and the bond package are not approved by the voters. He explained that the bed tax was an integral part of the economic model and a major component of the entire project. Mr. Gammage referred questions regarding the bond package to City staff, but he stated that the agreement includes DMB's commitment to provide property for at least one fire station and possibly a second, in addition to contributing funds toward the construction of the fire stations. He also addressed another speaker's skepticism regarding the viability of the project by advising that DMB is one of the most successful developers in the State of Arizona and that Gaylord has an excellent national reputation. Addressing questions regarding employment opportunities, Mr. Gammage said that the development would generate high-wage jobs that are typically represented in Class A office buildings. Referring to the legal questions posed by Mr. Schuelke, he expressed confidence in the ability of the experienced legal teams retained by each party to negotiate agreements that comply with the Statutes. Mr. Gammage said that because a convention center is included as part of the development, the March election would provide Mesa voters an opportunity to approve or reject the project.

Mr. Gammage, referring to individuals opposed to public/private partnerships, stated the opinion that all cities are public/private ventures with respect to streets and other infrastructure. He cited the example of an agreement between the City of Glendale and a hotel builder which called for the developer to construct a hotel in proximity to a convention center constructed by the City. Mr. Gammage noted that the convention center in the DMB project will be twice the size of the one in Glendale without financially obligating the City of Mesa for the construction or operating costs.

Mr. Gammage said that private/public partnerships require considerable effort on both sides, and he wanted to take this opportunity to thank everyone who contributed to the development of these complicated agreements. He thanked City staff members for their long hours and their diligence to protect the best interests of the City. He recognized Planning Director John Wesley and his staff for developing the creative zoning mechanism for this project. Mr. Gammage stated that the City was well represented by City Attorney Debbie Spinner and her staff in developing the complicated agreements and complex documents, and he complimented City Manager Christopher Brady for his leadership and attention to detail. He also thanked the Council for their participation in the process, particularly Vice Mayor Jones and Councilmember Somers, who have been involved from the beginning, and he added that the commitment and support of Mayor Smith was extremely valuable to the process.

Responding to a request from Mayor Smith, Mr. Brady explained that the bond packages being considered by the voters on November 4th address transportation and Public Safety projects. He said that regardless of the outcome of the election, the negotiated agreement with DMB allows the City to recover all costs associated with public safety infrastructure required for the development area.

Mayor Smith added that this is an example of growth paying for itself because revenues, such as impact fees and sales taxes, would be sufficient to address the costs of the required public safety infrastructure in the DMB development area.

Councilmember Somers noted that the Public Safety bonds to be considered by the voters on November 4th are related to providing services to development that already exists in the community.

Councilmember Kavanaugh noted that DMB and Gaylord are recognized nationwide for their high-impact, quality developments, and he expressed the opinion that in future years, this development will be recognized as a "high-impact, legacy project" for the City of Mesa. He said that several past decisions have been transformational in their impact on the community, and he cited the foresight of former leaders to negotiate with the government for Falcon Field Airport, the acquisition of the Phoenix-Mesa Gateway Airport, and the approval of residential projects such as Dobson Ranch, Red Mountain Ranch and Las Sendas that transformed the character and identity of the community through homes and jobs. Councilmember Kavanaugh stated that this project, which has the necessary blend of homes and jobs, represents the largest, single private investment in the City of Mesa and one of the largest private investments in the State of Arizona. He added that this project has "broken the mold" with regard to the manner in which the City views zoning cases and the sustainability of zoning decisions. Councilmember Kavanaugh further stated the opinion that this project offers a proper balance of risk and rewards, which Mesa voters will have an opportunity to evaluate when they vote on the project. He expressed support for the agenda items.

Vice Mayor Jones stated that he considered it a privilege to be involved with this process, and he thanked everyone who participated in planning this significant project.

Councilmember Higgins acknowledged the efforts of Planning Director John Wesley and his staff for the new zoning designation, and she stated the opinion that the zoning represents the “cutting edge” of new urban development.

Councilmember Finter noted that as a new Councilmember, he was initially skeptical regarding the project. He said that after studying all the documents and participating in extensive discussions, he believes that these development agreements serve the best interest of the City of Mesa.

Councilmember Richins stated the opinion that the land use plan for this development was very innovative. He expressed his appreciation to DMB and the Planning Department staff, and in particular, Zoning/Civil Hearing Administrator Gordon Sheffield and Special Projects Manager Laura Hyneman. Councilmember Richins stated the opinion that the “21st century urbanism” approach would have a positive impact on redevelopment and sustainability in West Mesa and other parts of the City.

Councilmember Somers, noting that the members of Scout Troop #995 were still present for this discussion, said that in the future, the scouts could recall that they were present when these significant decisions were made. He recognized Roc Arnett, President of the East Valley Partnership, for his foresight in bringing together approximately 100 stakeholders from southeast Mesa for the Urban Land Institute study. Councilmember Somers also cited the work of the Planning Department and expressed appreciation for the planning tool provided by the Arizona State University Decision Theatre. He said that the support for the project from outside of Mesa was an indication that this area would become a center of regional importance and a job core. Councilmember Somers addressed the concerns expressed by a few individuals by noting that DMB and Gaylord are successful developers with excellent reputations, and he stated the opinion that the right plan was in place. He addressed the issue of jobs by noting that this plan calls for approximately 14 million square feet of office space. Councilmember Somers thanked the Planning Department, the City Attorney’s Office and the City Manager’s staff for their efforts.

Mayor Smith stated that this is a momentous occasion for the City of Mesa, and he added that the process has been excruciating and difficult. He said that although he has been involved in many real estate developments during his career, he has never been involved in one that was this complex. Mayor Smith commented that almost every significant project in the country involves some type of public/private partnership and that a key factor for success is that the partnership must benefit the community. He further stated that tonight’s decision is merely the beginning of the journey rather than the end, and he advised that this project involves \$1 billion in private investment with virtually no risk to the City. Mayor Smith also cited other benefits to the City, such as excise and bed tax revenues, the impetus for job creation and the foundation for future economic development.

- 9a. Take action on a resolution adopting Findings of Fact relating to the Retail Development Tax Incentive Agreement (“bed tax”) with DMB Mesa Proving Grounds, LLC, and Gaylord Mesa, LLC – Resolution No. 9396 **(2/3 vote required)**.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution No. 9396 be adopted.

Mayor Smith explained, and City Attorney Debbie Spinner confirmed, that no retail sales tax is included in this agreement, but the State Statutes require this terminology with regard to the "bed tax."

Mayor Smith called for the vote.

Carried unanimously.

- 9b. Take action on a resolution approving and authorizing the City Manager to execute a Pre-Annexation Development Agreement (Retail Development Tax Incentive Agreement) ("bed tax") with DMB Mesa Proving Grounds, LLC, and Gaylord Mesa, LLC and to execute leases for property conveyed to the City under the terms of such Development Agreement for the development of approximately 335 acres of the former General Motors Proving Grounds facility, located generally at the south of Elliot Road and east of Ellsworth Road – Resolution No. 9397 **(2/3 vote required)**.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution No. 9397 be adopted.

Carried unanimously.

- **9c. Take action on resolution approving and authorizing the City Manager to execute a Development Agreement (for zoning entitlements and infrastructure requirements) between DMB Mesa Proving Grounds, LLC and the City of Mesa for the development of the Mesa Proving Grounds property generally located southeast of the intersection of Elliot and Ellsworth Roads – Resolution No. 9398.
- **9d. Take action on resolution approving and authorizing the City Manager to execute a Development Agreement (for zoning entitlements) between DMB Mesa Proving Grounds, LLC, Gaylord Mesa, LLC and the City of Mesa for the development of a portion of the Mesa Proving Grounds property generally located southeast of the intersection of Elliot and Ellsworth Roads – Resolution No. 9399.
- **9e. Take action on ordinance for **A08-08 (District 6)**. Annexing land located south of Elliot Road between Ellsworth and Signal Butte Roads (3,137.43± acres). Initiated by Grady Gammage, Jr., Esq., Gammage & Burnham PLC representing the property owner – Ordinance No. 4891. **(Continued from the October 20, 2008 Council meeting)**.
- **9f. Take action on ordinance for **Z08-55 (District 6)** The 3600 to 200 blocks of South Ellsworth Road (east side), the 9200 to 10800 blocks of East Elliot Road (south side), and the 3600 to 6000 blocks of the South Signal Butte Road alignment (west side). Located south of Elliot Road between Ellsworth Road and Signal Butte Road (3200± acres). Rezone from Maricopa County Rural 43 with a Special Use Permit for a Proving Grounds to City of Mesa R1-43. This request will establish City of Mesa zoning on recently annexed property. Karrin Taylor, DMB Mesa Proving Grounds, LLC, owner; City of Mesa, applicant – Ordinance No. 4892. **(Continued from the October 20, 2008 Council meeting)**.

P&Z Recommendation: Approval with Conditions. (Vote: 4-0-3 with Boardmembers Roberts and Salas absent and Coons abstaining).

- **9g. Take action on ordinance for **Z08-56 (District 6)** The 3600 to 5200 blocks of South Ellsworth Road (east side), the 9200 to 10800 blocks of East Elliot Road (south side), and the 3600 to 6000 blocks of the South Signal Butte Road alignment (west side). Located south of Elliot Road between Ellsworth Road and Signal Butte Road (3200± acres). Rezone from R1-43 to Planned Community District (PCD). This request will establish a Community Plan for a Mixed Use Community. Karrin Taylor, DMB Mesa Proving Grounds, LLC, owner/applicant – Ordinance No. 4893. ***(Held neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with Conditions. (Vote: 5-0-2 with Boardmembers Coons and Salas absent).

- **9h. Take action on an ordinance amending Section 9-6-4 of the Mesa City Code to allow alternative street lighting standards in portions of the proposed Mesa Proving Grounds project – Ordinance No. 4894 **(District 6) (Continued from the October 20, 2008 Council meeting)**.
- **9j. Take action on a resolution granting a variance to DMB Mesa Proving Grounds LLC from the permit requirements restricting certain water uses of Section 4-5-2 of the Mesa City Code – Resolution No. 9400.

All items listed with two asterisks (**) will be considered as a group by the City Council and will be enacted with one motion.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution Nos. 9398, 9399 and 9400 and Ordinance Nos. 4891, 4892, 4893 and 4894 be adopted.

Carried unanimously.

- 9j. Take action on a resolution calling a Special Election to be held on March 10, 2009 to submit to Mesa qualified electors a question relating to the approval or disapproval of certain public expenditures related to the Mesa Proving Grounds project as required by Section 613 of the Mesa City Charter – Resolution No. 9401.

It was moved by Councilmember Somers, seconded by Vice Mayor Jones, that Resolution No. 9401 be adopted.

Thomas C. Schuelke, 7604 East Wolf Canyon, reiterated his previous comments regarding the prohibition of tax incentives in the Arizona Revised Statutes, and expressed concern that the City could lose State-shared tax revenues.

At the request of Mayor Smith, Ms. Spinner referred to item 5.2 of Sub-section E of the agreement, which states that if there is a penalty imposed by the State or if there is a change in the Legislature or a future change in the Statutes that impacts this agreement and results in a

penalty or a loss of benefits to the City, DMB and Gaylord have agreed to make the City whole. She said that this level of protection is included in the agreement and that Gaylord and DMB have agreed to these terms.

Mayor Smith stated, and Ms. Spinner confirmed, that there is no risk to the City. Mayor Smith said that Ms. Spinner could provide Mr. Schuelke with additional information after the meeting. He added that the Council and the developer believe that it is important that the citizens of Mesa have an opportunity to vote on this project.

Mr. Brady advised that the developer would be paying for the cost of the election.

Councilmember Richins explained that in this election, as was the case with the Waveyard election, the developer is seeking permission to move forward with the project, and that an affirmative vote by the citizens of Mesa in March would place the responsibility for moving forward on the developer.

Mayor Smith suggested that discussions of these projects should include the benefits of the entire project rather than concentrating on incentives that are being provided.

Mayor Smith called for the vote.

Carried unanimously.

Mayor Smith thanked Jeff Woodward of Gaylord and Drew Brown of DMB for being present and for being actively involved in the process.

10. Items from citizens present.

Thomas C. Schuelke, 7604 East Wolf Canyon, expressed disappointment that the City Attorney did not read into the record the text of the State Statutes that he believes are pertinent to these agreements. He suggested that consultants hired to prepare reports for the City should be present at the meeting to answer questions. Mr. Schuelke also requested that the City establish a policy that allows the public fourteen days to become familiar with an agreement prior to a Council consideration of the agreement.

David Douthit, 623 South Winthrop, expressed concern regarding the City's decision not to purchase 16 new motorcycles for the Police Department, which he believes would negatively impact the effectiveness of the Traffic Unit.

11. Adjournment.

Without objection, the meeting adjourned at 7:59 p.m.

SCOTT SMITH, MAYOR

ATTEST:

LINDA CROCKER, 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 3rd day of November 2008. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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