

COUNCIL MINUTES

May 2, 2005

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 2, 2005 at 5:45 p.m.

COUNCIL PRESENT	COUNCIL ABSENT	OFFICERS PRESENT
Mayor Keno Hawker Rex Griswold Kyle Jones Tom Rawles Janie Thom Claudia Walters Mike Whalen	None	Mike Hutchinson Barbara Jones Debbie Spinner

Invocation by Chaplain Deede Scott, Church of Scientology of Arizona.

Pledge of Allegiance was led by Mayor Hawker.

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.

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

Carried unanimously.

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

Minutes from the April 7, 14, 18 and 21, 2005 Council meetings.

3. Consider the following liquor license applications:

*3a. JOHNNY CHEN, AGENT

New Restaurant License for China Palace, 5761 E. Brown Road, Ste 1. This is an existing business. The Restaurant License previously held at this location by Dick Jao Fu Hu, Individual, China Palace Chinese Restaurant, will revert back to the State. District #5.

*3b. NOBUMICHI SAWAI, AGENT

New Restaurant License for Sakana Sushi & Grill, 1853 S. Power Road, Suite B. This is new construction. No previous licenses at this location. District #6.

*3c. JAMES ANDREW KOESTNER, YOUTH PASTOR

Special Event License application for James Andrew Koestner, Youth Pastor, St. Bridget Catholic Church, a one-day religious event to be held on Saturday, May 14, 2005 from 5:30 p.m. to 10:00 p.m. at 2213 North Lindsay Road. District #5.

4. Consider the following contracts:

*4a. Three-year supply contract for Modified Asphalt Binder as requested by the Transportation Division Field Operations. (Contract 2005125).

The Purchasing Division recommends accepting the only responsive bid by Paramount Petroleum Corp., at \$229,510.35 based on estimated annual requirements.

*4b. Network Hardware, as requested by the Information Services Division. (State Contract #AD000187-002, -003, and -016).

The Purchasing Division recommends approving:

\$31,406.24 for Cisco hardware from the State of Arizona contract with Qwest Communications Corporation, including tax;

\$168,439.76 for F5 hardware from the State of Arizona contract with Calence, including tax;

\$131,454.02 for Enterasys hardware from the State of Arizona contract with Ames Business and Learning, including tax; and,

\$66,592.03 for CyberGuard hardware from the Mesa Public Schools SAVE contract with Enterprise Network Solutions, including tax.

The combined total award for the recommended purchases is \$397,892.04.

4c. 2005 Street Improvements – Phase I, City of Mesa Project No. 04-841-001.

This project will reconstruct over 69,000 square yards of asphalt pavement. Improvements will result in an operationally and aesthetically improved roadway.

Recommend award to low bidder, Nesbitt Contracting Company, Inc., in the amount of \$1,630,923.75 plus an additional \$163,092.38 (10% allowance for change orders) for a total award of \$1,794,016.13.

Mayor Hawker declared a potential conflict of interest on agenda items 4c, d and f and said he would refrain from discussion/participation in these agenda items. He yielded the gavel to Vice Mayor Walters for action on these agenda items.

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

Upon tabulation of votes, it showed:

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

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

4d. 2005 Street Improvements – Phase III, City of Mesa Project No. 04-841-003.

This project will reconstruct over 52,000 square yards of asphalt pavement. Improvements will result in an operationally and aesthetically improved roadway.

Recommend award to low bidder, Achen-Gardner Engineering, LLC, in the amount of \$1,108,131.64 plus an additional \$110,813.16 (10% allowance for change orders) for a total award of \$1,218,944.80.

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

Upon tabulation of votes, it showed:

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

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

*4e. Hermosa Vista Sewage Lift Station Rehabilitation, City of Mesa Project No. 01-664-001.

This project will rehabilitate the lift station to prevent the occurrence of non-permitted discharges and to improve the City's sanitary sewer collection system.

Recommend award to low bidder, Hunter Contracting Company, in the amount of \$329,500 plus an additional \$32,950.00 (10% allowance for change orders) for a total award of \$362,450.00.

- 4f. Falcon Well No. 15 – Equipment and Piping, City of Mesa Project No. 01-627-001.

This project will provide the necessary equipping at the well site for groundwater production and supporting infrastructure for the installation of a future arsenic treatment system. Improvements will also include a new perimeter site block wall and site perimeter landscaping.

Recommend award to low bidder, Quest Civil Constructors, Inc., in the amount of \$657,657.00 plus an additional \$65,765.70 (10% allowance for change orders) for a total award of \$723,422.70.

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

Upon tabulation of votes, it showed:

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

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

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

- *4g. Municipal Building Remodel, City of Mesa Project No. 02-415-002.

This project will allow the Building Safety and Financial Services Divisions to expand their operations into the space where Planning vacated and make other necessary improvements.

Recommend award to low bidder, SDB, Inc., in the amount of \$2,241,332.52 plus an additional \$224,133.25 (10% allowance for change orders) for a total award of \$2,465,465.77.

Continued to the May 16, 2005 Council Meeting.

5. Introduction of the following ordinances and setting May 16, 2005, as the date of public hearings on these ordinances:

- *5a. **A04-15 (District 5)** Annexing west and north of the northwest corner of Main and Power Road. Initiated by Associated Asset Management Company, the property management company for the Desert Cove subdivision.

- *5b. **A04-16 (District 5)** Annexing west and north of the northwest corner of Main and Power Road. Initiated by Associated Asset Management Company, the property management company for the Apache Cove subdivision.
- *5c. Amending Section 10-5-1 of the Mesa City Code by adding 10-5-1(J) relating to the ability to charge for event parking.
- *5d. Amending Section 11-13-2 of the Mesa City Code by adding 11-13-2 (V) relating to temporary parking lots.
- 5e. **Z05-23 (District 4)** 851 E. Main Street. Located south and west of Main Street and Stapley Road (1± ac.). Council Use Permit. This request is to allow a day labor business. Ron Walters, owner; David Naja (Able Body Labor), applicant.

P&Z Recommendation: Denial. (Vote: Passed 6-1, Boardmember Carpenter voting nay).

Mayor Hawker announced that the applicant could come forward to address the Council at this time, but neither the applicant nor a representative was present to speak on this item.

Mayor Hawker advised that the following individuals completed cards expressing opposition to a Council Use Permit being issued to Able Body Labor, but indicated that they did not wish to address the Council:

Barry Feister, 1307 South Date Street
Ava Coburn, 1307 South Date Street

The following individuals spoke in opposition to granting a Council Use Permit to Able Body Labor:

Alice Ford, 258 North Horne
JoAnn Moore, 649 East 2nd Street
Glenn Fuller, 1049 South Lazona Drive

Comments made in opposition to granting a Council Use Permit included the following:

- The Able Body Labor bus is often parked in front of their office, which violates a stipulation of the Council Use Permit.
- People loiter in front of and along the sides of the business location.
- Three labor centers are located in close proximity to the subject site.
- The location is not appropriate for a day labor business.
- Many of the clients are illegal workers.

Mayor Hawker reviewed the stipulations included with the Council Use Permit.

Planning Director John Wesley confirmed that the Council could revoke Able Body Labor's Council Use Permit any time the stipulations are violated.

Councilmember Whalen advised that although he normally does not oppose the introduction of an ordinance, he would oppose this introduction. He noted that many citizens have expressed concerns regarding the business location and the manner in which the business is being conducted.

Vice Mayor Walters stated opposition to the introduction due to the fact that the business has already failed to comply with the stipulations outlined in the Council Use Permit, and she expressed concern regarding the possible negative impact of the business on the neighborhood. She also addressed a statement made during the public comment period regarding illegal workers by advising that an investigation by the City staff determined that Able Body Labor hires only individuals who are legally entitled to work in the United States.

In response to a question from Councilmember Griswold, Mr. Wesley advised that the business was classified as a day labor center rather than a temporary employment agency based on the materials that Able Body Labor provided to staff, which included several references to providing labor on a daily basis.

Councilmember Griswold stated the opinion that the only difference between Able Body Labor and a temporary employment agency is that Able Body employs a higher percentage of construction workers.

Vice Mayor Walters noted that another difference between Able Body Labor and a temporary employment agency is that Able Body has clients who arrive daily to be transported to a job site. She noted that temporary employment agencies do not normally transport the workers to a job site or require the workers to report to the business location on a daily basis.

Responding to a comment by Councilmember Thom that a meeting notice published in the Arizona Republic referencing this agenda item was printed in bolder, larger type while other notices were in regular type, Mr. Wesley stated that he would investigate the matter and provide additional information.

Councilmember Jones expressed the opinion that the location is not appropriate for this type of business due to the surrounding area and the site's space limitations.

Mr. Wesley advised that Able Body Labor was notified on Friday, April 29th, that the Council Use Permit would probably be removed from the consent agenda for Council discussion.

It was moved by Councilmember Rawles, seconded by Mayor Hawker, that the subject ordinance be introduced and that May 16, 2005 be established as the date for the public hearing.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by a majority vote.

6. Consider the following resolutions:

- *6a. Approving the Assessment Diagram Map for the Power Road Scalloped Street Assessment Project #00-043.1 – Resolution No. 8459.

This project installed street improvements along portions of North Power Road from Adobe Road to McKellips Road.

A portion of the project costs will be assessed to the adjacent property owners under the Scalloped Street Assessment laws.

- *6b. Fixing June 6, 2005, as the Public Hearing for the proposed final assessments for the Power Road Scalloped Street Assessment Project #00-043.1 – Resolution No. 8460.

This project installed street improvements along portions of North Power Road from Adobe Rd to McKellips Road.

A portion of the project costs will be assessed to the adjacent property owners under the Scalloped Street Assessment laws.

- *6c. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the Town of Gilbert, the Town of Queen Creek and the City of Mesa for an effluent pipeline from the Greenfield Water Reclamation Plant to the East Maricopa County Floodway – Resolution No. 8461.

- *6d. Approving and Authorizing the City Manager to execute an Intergovernmental Agreement between the State of Arizona and the City of Mesa for the purpose of allowing Mesa to receive Federal Department of Homeland Security (DHS), Office for Domestic Preparedness (ODP) reimbursement grants from the State of Arizona Division of Emergency Management (ADEM) – Resolution No. 8462.

- *6e. Extinguishing two temporary drainage easements at Spring of Life Christian Church located at 1330 South Crismon Road – Resolution No. 8463.

These easements are no longer necessary as Phase II of the project is creating a permanent drainage easement.

- *6f. Extinguishing an easement for Public Utilities located at the northeast corner of Recker Road and Main Street – Resolution No. 8464.

The easement was for a public sewer line and is no longer necessary as the building is being razed to make room for a new Walgreen's Pharmacy.

7. Deleted.

8. Consider the following ordinances:

- *8a. Amending various sections of the Mesa City Code regarding the following traffic modifications – Ordinance No. 4382:

Prohibiting Left Turns From Driveways: 10-3-15 (C)

The west side of Mountain Road between 7:00 a.m. and 3:00 p.m. on school days from the driveway with centerline approximately 225 feet south of Dover Street (east of Signal Butte Road and north of University Drive, Council District 5).

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

On the east side of 32nd Street from Broadway Road to a point 263 feet south of Broadway Road and on the west side of 32nd Street from Broadway Road to a point 175 feet south of Broadway Road (32nd Street south of Broadway Road, Council District 2).

- *8b. Amending Section 11-15-2 of the Zoning Ordinance (Title 11 of the Mesa City Code) pertaining to building, parking, drive aisle and landscape setbacks adjacent to arterial streets – Ordinance No. 4383.

P&Z Recommendation: Approval. (Vote: Passed 6-0-1, Boardmember Carpenter abstaining).

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

- *9a. Moved to item #5e.

- *9b. **Z05-31 (District 6)** 5416 East Baseline Road. Located north and east of Baseline Road and Higley Road (4.4 ac). Council Use Permit. This request is to allow an Everest College to operate in an existing building zoned C-1. Kurt Waltz, Diessner Development Company, owner; Ralph Pew, Pew and Lake, PLC, applicant – Ordinance No. 4384.

P&Z Recommendation: Approval. (Vote: Passed on consent).

1. Compliance with the basic development as described in the project narrative and as shown on the exhibits as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).

- 9c. **Z05-32 (District 1)** 2711 N. Horne. Located north and east of McKellips Road and Horne Road (3.19 ac.). Rezone from R1-43 to R1-43 PAD and Site Plan Review. This case is to allow for a 3-lot residential subdivision. Marlin Porter, owner/applicant – Ordinance No. 4392.

P&Z Recommendation: Approval. (Vote: Passed on consent).

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

2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Compliance with Residential Development Design Guidelines.
4. Compliance with all requirements of the Subdivision Technical Review Committee.

Reese Anderson, Snell & Wilmer, 400 East Van Buren, representing the applicant, advised that the proposal for the north Lehi property, adjacent to the 202 Freeway, is consistent with the General Plan. He stated that the proposed change from R1-43 to an R1-43 Planned Area Development (PAD) would enable the construction of a private street to provide access to the rear lot. Mr. Anderson explained that access to the rear lot from McDowell Road was eliminated when the 202 Freeway was constructed. He added that a private driveway is normally not subtracted from an acreage calculation, but it does occur under the PAD zoning ordinance. He noted that each lot is 43,560 square feet prior to subtracting the private drive and the landscape buffer. He added that the overall site consists of 3.14 acres, and that the applicant is proposing to construct three homes on the property.

Responding to a question from Mayor Hawker, Mr. Anderson advised that the Arizona Department of Transportation (ADOT) acquired the property from three different individuals. He explained that the applicant, Marlin Porter, later acquired the property at an ADOT auction. Mr. Anderson confirmed that one house presently exists on the property.

Mayor Hawker noted that Don Chase, 2661 North Horne, submitted a card expressing opposition to the project, but indicated that he did not wish to address the Council.

Glenda Chase, 2661 North Horne, stated that she lives adjacent to the subject property, and she explained that the area consists primarily of homes on lots of two acres or more. She expressed concern that approval of this rezoning case would negatively impact the unique rural character of the neighborhood and encourage other individuals to seek approval to construct additional homes on two-acre lots.

Mr. Anderson noted that the applicant's proposal is consistent with both the General Plan and the existing zoning.

Mr. Wesley stated that the property is unique due to the fact that the 202 Freeway prohibits access. He reported that both the Planning and Zoning (P&Z) Board and staff recommend approval.

Councilmember Griswold advised that although he understood Ms. Chase's concerns, he would vote to approve the zoning case due to the fact that the property is adjacent to a freeway.

Vice Mayor Walters noted that driveways are an acceptable component of lots in other developments. She expressed the opinion that the project would not negatively impact the Lehi neighborhood, and therefore she would vote to approve the rezoning request.

In response to a question from Councilmember Whalen, Mr. Anderson stated that the applicant has agreed to install residential sprinkler systems, and that the private drive will comply with the Fire Department's turning radius requirements.

Mr. Wesley confirmed that Stipulation Number 2, which requires “compliance with all requirements of the Development Services Department,” includes the Fire Department’s stipulations.

It was moved by Councilmember Griswold, seconded by Councilmember Thom, that Ordinance No. 4392 be adopted.

Carried unanimously.

- *9d. **Z05-33 (District 6)** The 9200 block of East Southern Avenue (south side) and the 1200 block of South Ellsworth Road (east side). Located south of Southern Avenue and east of Ellsworth Road (20.83 ac.). Site Plan Modification. This case is to allow for a Lowe’s home improvement store with commercial pads. Ray Downs, owner; Don Andrews, applicant – Ordinance No. 4385.

P&Z Recommendation: Approval. (Vote: Passed on consent).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan submitted, except as noted below.
 2. Compliance with all City development codes and regulations.
 3. Compliance with all requirements of the Design Review Board.
 4. All pad buildings to be architecturally compatible with the center and approved by the Design Review Board.
 5. Compliance with all requirements of the Subdivision Technical Review Committee.
 6. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
 7. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, or at the time of the City’s request for dedication whichever comes first.
 8. All street improvements and street frontage landscaping to be installed in the first phase of construction.
 9. Recordation of cross-access easements between all lots proposed in the subdivision plat.
 10. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
 11. Review and approval of a Special Use Permit by the Board of Adjustment / Zoning Administrator for a comprehensive sign plan.
 12. Future Site Plan Review shall be required for Phase Three (3).
- 9e. **Z05-34 (District 3)** 2950 South Alma School Road. Located south and west of Alma School Road and Guadalupe Roads (1.63 ac). Site Plan Modification. Development of a Dairy Queen restaurant and pad building. Southwest corner of Guadalupe and Alma School Road. Ltd. Partnership (Gary Davidson), owners; Paul Gilbert, applicant – Ordinance No. 4393.

P&Z Recommendation: Approval. (Vote: Passed 5-1-1, Boardmember Esparza voting nay, Saemisch abstaining).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, and elevations submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
5. Compliance with all requirements of the Design Review Board.
6. Parking calculations for Future Pad Building B to be per Zoning Ordinance requirements, with consideration of all existing uses within the Group COI Development.
7. Review and approval of a Substantial Conformance Improvement Permit.

Paul Gilbert, 4800 North Scottsdale Road, representing the property owner, advised that a modification to an existing site plan is being proposed for Council approval. He noted that the Planning and Zoning (P&Z) Board and staff recommend approval.

Neo Escobedo, 2754 South Alma School Road, owner of a Dairy Queen since 1989, advised that the subject property has been in escrow since February 2002, during which time the lease payments for his existing location have increased from \$3,500 to a current rate of \$5,700. He added that further delays regarding this case would negatively impact his financial resources.

Reese Anderson, Snell & Wilmer, 400 East Van Buren, representing the neighboring businesses in the Mesa Shopping Center, stated that the legal protest has been withdrawn, and he added that his clients concur that the proposed modified site plan represents an improvement. He added that a 90 degree rotation of pad B would further improve the site plan.

Discussion ensued relative to the fact that rotating pad B would provide an improved sight line for the neighboring businesses but not for the Dairy Queen; and that a future tenant has not been selected for pad B.

It was moved by Vice Mayor Walters, seconded by Councilmember Griswold, that Ordinance No. 4393 be adopted.

Councilmember Rawles advised that negotiations with the applicant and the neighboring business owners have been ongoing for many months in an effort to reach an agreement. He commended both parties for compromising on many issues, and he urged the Council to approve the proposed modified site plan.

Mayor Hawker called for the vote.

Carried unanimously.

- *9f. **Z05-35 (District 1)** The 3000 Block of East McKellips Road. Located south and east of McKellips Road and Lindsay Road (3.7 ac). Site Plan Modification. This request is to allow development of a restaurant building. Wayne Wyatt, owner; Chris Neal, Neptune Design Group, applicant – Ordinance No. 4386.

P&Z Recommendation: Approval. (Vote: Passed on consent)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Compliance with all requirements of the Design Review Board.
5. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City prior to the issuance of a building permit.

- *9g. **Z05-36 (District 1)** The 1200 to 1300 block of East McKellips Road (south side) and the 1800 to 1900 block of North Stapley Drive (east side). Located south and east of McKellips Road and Stapley Drive (10.25 ac). Site Plan Modification. This request to development commercial retail buildings. Ryan Gaston, Barclay Group, owner; Martin Flood, applicant – Ordinance No. 4387.

P&Z Recommendation: Approval. (Vote: Passed on consent).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted (without guarantee of lot yield, building count, lot coverage), except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Compliance with all requirements of the Design Review Board.
6. Review and approval of a Substantial Conformance Improvement Permit.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- *9h. **Z05-37 (District 5)** The 3700 block of East McLellan Road (north side). Located south and east of McKellips Road and Val Vista Drive (22.64 ac). Rezone from R1-35 to R1-35 PAD and Site Plan Review. This request is to allow for the development of a gated single-residence subdivision. Jeff Blandford, owner/applicant – Ordinance No. 4388.

P&Z Recommendation: Approval. (Vote: Passed 6-0-1, Boardmember Mizner absent for the vote).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Residential Development Guidelines.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
8. Written notice to be given to future residents that this subdivision is within one (1) mile of Falcon Field Airport.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Falcon Field Airport which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).
10. Record a one-foot non-vehicular access easement along the cul-de-sac on Ivy Glen, except to allow access as permitted under the existing easement.
11. Provide a 20-foot landscape tract along Ivy Glen to be landscaped with existing and/or replacement citrus trees.

*9i. **Z05-38 (District 5)** The 4200 to 4400 Block of East Brown Road (north side). Located west and north of Greenfield Road and Brown Road (3.3 ac). Site Plan Modification. This request is to allow development of three office buildings. David Gillette, FCF UTAH, LLC and Dr. Douglas A. Bobb, Legacy Investments, L.L.C., owner; Allen Willis, Amberwood Homes, applicant – Ordinance No. 4389.

P&Z Recommendation: Approval. (Vote: Passed on consent).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations as submitted.
2. Compliance with all City development codes and regulations.
3. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
4. Recordation of cross-access easement with property to the east for the shared drive entrance from Brown Road.
5. Compliance with all requirements of the Subdivision Technical Review Committee.
6. Compliance with all requirements of the Design Review Board.
7. Future review by the Design Review Board of "Building A" Parcel 2.

- *9j. **Z05-39 (District 6)** Properties located between the Signal Butte Road alignment and Mountain Road, and between the Galveston Road alignment and 1320' north of Warner Road (558± ac). Rezone from R1-43 to R1-6 (conceptual R-2 and PF), R1-6 PAD, R1-7 PAD, and R-2 PAD all within the Mountain Horizons Development Master Plan. This request is to allow the development of a residential master planned community. Pulte Homes (Tim Loughrin), owner; Sean Lake, Pew & Lake, PLC, applicant – Ordinance No. 4390.

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and preliminary plat (without guarantee of lot yield, building count, lot coverage).
2. Compliance with the Residential Development Guidelines including product elevations.
3. Compliance with all City development codes and regulations.
4. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
5. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.
6. Compliance with all requirements of the Subdivision Technical Review Committee.
7. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
8. Written notice to be given to future residents that this subdivision is within one (2) miles of Williams Gateway Airport.
9. Owner granting an Avigation Easement and Release to the City, pertaining to Williams Gateway Airport, which will be prepared and recorded by the City (concurrently with the recordation of the final subdivision map, prior to the issuance of a building permit).

- *9k. **Z05-40 (District 6)** The 4700 to 4800 block of East Baseline Road (north side). Located north and west of Baseline Road and Higley Road (12 ac). Rezone from AG to PEP PAD and Site Plan Review. This request is to allow for the development of an industrial office complex. Frank Richards, owner; Steve Nevala – Cawley Architects, applicant – Ordinance No. 4391.

P&Z Recommendation: Approval. (Vote: Passed on consent).

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Compliance with all requirements of the Development Services Department (Engineering, Traffic Engineering, Solid Waste and Facilities, etc.).
3. Dedicate the right-of-way required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication whichever comes first.

4. Compliance with all requirements of the Subdivision Technical Review Committee.
5. Compliance with all requirements of the Design Review Board.
6. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the modifications outlined in the staff report.
7. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

10. Consider the following subdivision plat:

- *10a. "POWER & McKELLIPS CORRAL", – (Council District 5) – 1900 block of North Power Road (west side) located south and west of McKellips Road and Power Road. 2 C-2 commercial lots (4.82 ac). Power & McKellips Corral, LLC, and Halle Properties, LLC, William L. Hawkins, Managing Partner, owner; CMX, LLC, engineer.

11. Items from citizens present.

Glenn Fuller, 1049 South Lazona Drive, noted that agenda item 9a was moved to agenda item 5e, and stated that he had no further comments.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:46 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 2nd day of May 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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