

# COUNCIL MINUTES

August 25, 2003

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on August 25, 2003 at 5:45 p.m.

## COUNCIL PRESENT

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

## COUNCIL ABSENT

None

## STAFF PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

Invocation by Father Michael Bigley, SDS, Associate Pastor, Queen of Peace Catholic Church.

Pledge of Allegiance was led by Nelson Rush, Troop No. 656.

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

Carried unanimously.

### 1.1 Consider the appointment of Judge J. Matias (Matt) Tafoya as Presiding City Magistrate for a two-year term.

It was moved by Vice Mayor Kavanaugh, seconded by Councilmember Walters, that the appointment of Judge J. Matias (Matt) Tafoya as Presiding City Magistrate for an initial two-year term, at an initial salary of \$134,000, be approved.

Carried unanimously.

Judge Tafoya expressed appreciation to the Council for the honor of being selected as the new Presiding City Magistrate. He commented that he looks forward to working with the City Magistrates and the entire Mesa Municipal Court staff and assured everyone that he would perform his duties to the best of his ability. Judge Tafoya also introduced his family and a number of friends and colleagues present in the audience and thanked them for their continued love and support.

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

Minutes from the June 2, August 11, 14, and 21, 2003 City Council Meetings.

3. Consider the following liquor license applications:

a. JASON MORRIS, AGENT

New Beer and Wine Store License for CVS Pharmacy #5026, 1212 South Greenfield Road. This is a vacant lot currently under construction. No previous liquor licenses at this location.

Councilmember Whalen declared he had a potential conflict of interest and said he would refrain from discussion/participation in this agenda item.

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

Mayor Hawker declared the motion carried unanimously by those voting.

\*b. MICHAEL HUFFSTUTTLER, AGENT

New Beer and Wine Store License for Eckerd Drugs #5307, 4330 East Southern Avenue. This is a vacant lot currently under construction. No previous liquor licenses at this location.

\*c. DAVID CISIEWSKI, AGENT

New Beer and Wine Store License for Quiktrip #452, 816 West University Drive. This is a vacant lot. No previous liquor licenses at this location.

4. Consider the following contracts:

\*a. Three copiers for the Criminal Investigations Division of the Police Department. Two units are replacements and one is an additional unit.

The Purchasing Division recommends authorizing purchase from State of Arizona contract with Minolta Corp. c/o Business Imaging Systems, Tempe, AZ at \$48,103.42 including applicable sales tax. (This purchase is 100% funded by a grant from the U.S. Department of Justice).

- \*b. One Global Positioning System (GPS) Modular system to be used for vehicle accident investigation as requested by the Police Department.

The Purchasing Division recommends accepting the bid by Surveyors Instrument Service at \$36,213.50 including applicable sales tax. (This purchase is 100% funded by a grant fund from the Arizona Governor's Office and Highway Safety). (Sole Source)

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

The Purchasing Division recommends exercising the two-year renewal with the original low bid by Seaside Helicopters, Inc. for annual purchases estimated at \$250,000.00.

- \*d. One replacement infrared camera as requested by the Electric Division of the Utilities Department.

The Purchasing Division recommends accepting the bid by FLIR Systems, Inc. at \$22,704.00 including applicable use tax. (Sole Source)

- \*e. Two-year renewal of the supply contract for Lycofast mechanical couplings for warehouse inventory as requested by the Gas Division of Utilities.

The Purchasing Division recommends exercising the two-year renewal by R.W. Lyall & Company, Inc. at \$44,919.33 based on estimated annual requirements.

- \*f. Law enforcement vehicle equipment and accessories for 46 new patrol sedans as requested by Fleet Support Services. This purchase will add prisoner screens, window armor and related accessories to the patrol cars previously authorized by Council.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$33,606.19.

- \*g. "Ruggedized" Notebook Computers for the Building Safety Division as requested by the Information Services Division.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with CLH International, Inc. for a total of \$139,598.18.

- \*h. One-year renewal of the contract for Temporary Employment Services as requested by the Human Resources Division. This contract provides temporary employees for City departments.

The Purchasing Division recommends exercising the second of three one-year renewal options for each category/group of temporary positions as follows:

**Primary Contracts:**

Corporate Job Bank for Group I – recruited and payrolled positions, Group II – payrolled positions, and Group III – payrolled positions;

Summit Staffing for Groups II and III – recruited positions, and Group IV – payrolled positions.

The total estimated annual expenditures for Groups I, II and III is \$848,000.00. The total estimated annual expenditures for Group IV is \$1,792,000.00. The combined award is then \$2,639,000.00 based on estimated annual expenditures.

- \*i. Two new sports utility vehicles for commercial vehicle inspections as requested by the Police Department.

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with Five Star Ford at \$46,562.24. (This purchase is 100% grant funded by the Arizona Department of Public Safety).

- \*j. One-year renewal of contract for custodial services at 45 City buildings as requested by the Development Services Department. This renewal is for two of the City's three contracts for custodial services.

The Purchasing Division recommends authorizing the second of three one-year renewals with Bonded Cleaning Contractors for \$592,925.93 based on estimated annual expenditures.

- k. Velocity Way Improvements at Williams Gateway Airport, City of Mesa Project No. 02-13.

This project will construct approximately 3,600 feet of two-lane roadway, extending from Sossaman Road to the end of the proposed cargo apron. Features of the project include water, sewer and storm drain lines, and lighting.

Recommend award to low bidder, Archon, Inc., in the amount of \$2,172,000.00 plus an additional \$217,000.00 (10% allowance for change orders) for a total award of \$2,389,200.00

Mayor Hawker declared potential conflicts of interest on items 4k, 4l and 4o and said he would refrain from discussion/participation in these agenda items. He yielded the gavel to Vice Mayor Kavanaugh for action on these agenda items.

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

Upon tabulation of votes, it showed:

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

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

I. Williams Gateway Airport Drainage Improvements, City of Mesa Project 02-083.

This project is the first phase of an overall drainage system and will provide drainage protection for the north apron area. Improvements to be constructed under this project include over 3,500 feet of storm drainpipe, catch basins, headwalls, detention basins and related items.

Recommend award to low bidder, SJL Construction of Arizona, LLC, in the amount of \$381,856.00 plus an additional \$38,185.60 (10% allowance for change orders) for a total award of \$420,041.60.

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

Upon tabulation of votes, it showed:

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

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

\*m. Williams Gateway Airport Fire Protection System, Phase 1, City of Mesa Project No. 02-74.

This project is the first phase of the fire protection utility installation and will provide adequate fire protection for the north apron area. Improvements to be constructed under this project include nearly a 1.5 million gallons reservoir, on-line and backup pumps, a chlorine injection system for water quality, a generator, electrical system and controls, piping and fittings, and a perimeter security fence.

Recommend award to low bidder, Quest Civil Contractors, in the amount of \$2,498,498.00 plus an additional \$249,849.80 (10% allowance for change orders) for a total award of \$2,748,347.80.

\*n. One forklift for the Arizona Museum for Youth.

The Purchasing Division recommends accepting the low bid meeting specifications by Naumann Hobbs at \$25,403.50.

o. Greenfield Road Sewer Main, Brown Road to McDowell Road, City of Mesa Project No. 01-669-001.

This project will include the installation of over 11,000 feet of 24-inch sewer line, manholes and pavement, sidewalk and landscaping replacement as required by the project construction.

Recommend award to low bidder, Haydon Building Corporation, in the amount of \$1,399,206.50 plus an additional \$139,920.00 (10% allowance for change orders) for a total award of \$1,539,126.50.

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-Kavanaugh-Thom-Walters-Whalen  
NAYS - None  
ABSTAIN - Hawker

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

Vice Mayor Kavanaugh yielded the gavel back to Mayor Hawker.

5. Introduction of the following ordinance and setting September 8, 2003 as the date of public hearing on these ordinances:

- \*a. **Z03-30** 5404 East Southern Avenue (1.19± acres). Rezone from R1-7 to OS PAD. This case involves the development of an office. Allan Bulman, owner; Don Cramer, AIA, applicant. Council District 6.
- \*b. **Z03-31** 7255 East Hampton Avenue (3.14± acres). Rezone from M-1 to M-1 PAD. This case involves the development of industrial offices. Sunridge Properties, Inc., owner; Les Partch, Partch & Assoc. Architecture, applicant. Council District 6.
- \*c. **Z03-33** The 1100 block of West Southern Avenue, south side (2.04± acres). Rezone from C-2 (Conceptual BIZ) DMP and C-2 BIZ DMP and Site Plan Modification. This case involves the development of a bank. Keith Earnest, owner; Scott Prickett, applicant. Council District 3.
- d. Repealing Title 6, Chapter 15 of the Mesa City Code and amending Title 6 by adding a new Chapter 15 pertaining to alarm systems as recommended by the Police Committee.

Councilmembers Whalen and Jones declared potential conflicts of interest and said they would refrain from discussion/participation in this agenda item.

It was moved by Councilmembers Walters, seconded by Councilmember Griswold, to introduce the above-referenced ordinance and set September 8, 2003 as the date of public hearing on the ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- \*e. Relating to building regulations; amending Title IV of the Mesa City Code by adding thereto a new Chapter 13, Rehabilitation Code, adopting by reference the North Carolina Rehabilitation Pilot Code, amending certain provisions in the North Carolina Rehabilitation Pilot Code, and setting penalties for violations as recommended by the General Development Committee.

6. Consider the following resolutions:

- \*a. Extinguishing a Temporary Retention Easement at the northwest corner of Guadalupe Road and Crismon Road – Resolution No. 8086.  
  
A permanent drainage solution has been approved making this easement no longer necessary.
- \*b. Authorizing the City Manager to execute a Land Owner Selection Form which would allow the City to opt to participate in the benefits of the CAP/Arizona Water Settlement Agreement of 2002 for 4,931.87 acres of the Pinal County farms located in the Central Arizona Irrigation and Drainage District that are owned by Mesa – Resolution No. 8087.
- \*c. Approving and authorizing the City Manager to execute an agreement between the Regional Public Transportation Authority and the City of Mesa – Resolution No. 8088.
- \*d. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the United States of America acting through the Federal Aviation Administration – Resolution No. 8089.
- \*e. Approving the application for Arizona Tourism and Sports Authority, Youth and Amateur Sports Grant Program for the Indoor Aquatics Center – Resolution No. 8090.
- f. Certifying the Baseline Court Collections for Fiscal Years 2002-2003 – Resolution No. 8092.

In response to a series of questions from Mayor Hawker, City Attorney Debbie Spinner provided a brief historical overview of this agenda item. She reported that in the last legislative session, the Arizona State Legislature passed House Bill 2533 (Arizona Revised Statute 12-116.04) which requires that on or before September 1, 2003, cities and towns must certify to the State Treasurer baseline figures for court collections for FY 2003. She explained that such funds will be deposited into the State's General Fund for the purpose of offsetting the cost of health insurance and retirement costs for State employees. Ms. Spinner advised that the language contained in the statute is vague and that Mesa, along with other Valley cities in the Arizona League of Cities, has attempted to arrive at a solution that is consistent with the intent of the statute, as well as to assess what items should and should not be included in the baseline calculation. She also stated that a second component to the statute requires that the Council, on a quarterly basis, certify the court collections of the Mesa City Court from the previous quarter, and that within 15 days after the end of each quarter, the City must submit to the State Treasurer 75% of any amount collected above the baseline figure.

Mayor Hawker stated the opinion that the statute will create a disincentive for the collection of court fees, fines and surcharges by the Mesa Municipal Court, especially if the City is required to share 75% of those revenues with the State of Arizona.

In response to Mayor Hawker's concerns, Presiding City Magistrate Walter Switzer concurred with the Mayor's assessment. He noted, however, that he and Ms. Spinner spent many hours analyzing this complex statute and commented that he has total confidence in her recommendation to the Council.

Discussion ensued relative to the differentiation in the collection amounts for the various quarters of FY 2003; the fact that the Town of Gilbert voted 6-1 not to certify its baseline court collections for FY 2002-2003; that there is no actual penalty contained in the statute if the Council failed to certify the baseline court collections; that the Arizona League of Cities is endeavoring to amend or repeal the statute during the next Legislative session, and that if Mesa and other Valley cities fail to certify and/or comply with the statute, that the Legislators may be less inclined to address this issue during the next Legislative session.

Mayor Hawker stated that he is reluctant to certify the figures submitted by staff without having the opportunity to evaluate their accuracy.

Vice Mayor Kavanaugh expressed support for moving the process forward, but commented that he hopes this issue will be a top priority with Mesa's Legislative delegation in the upcoming Legislative session. He also concurred with Mayor Hawker's comment that the statute as currently drafted is clearly a disincentive for cities, and although the State must pay for the healthcare and retirement costs of its employees, this is not the best solution in accomplishing that goal.

It was moved by Vice Mayor Kavanaugh that Resolution No. 8092 be adopted.

Councilmember Walters stated that in her opinion, the difference between this statute and a surcharge is that a surcharge is an assessment added onto an existing fee, whereas in this case, the State seems to be reaching into Mesa's General Fund. She noted that although she will reluctantly support the motion and is confident with Ms. Spinner's calculations, a clear message is being sent to the State that despite the Council's potential adoption of the Resolution, it strongly disagrees with the State's method of funding various employee-related programs.

Councilmember Walters seconded the motion.

Councilmember Thom voiced opposition to the motion and commented that the Council should convey the message to the State that if it wants to raise taxes, it should do so and not look to Arizona municipalities to collect monies for that purpose. She added that if the Council does certify the baseline court collections, what is to stop the State from finding another source of income that the cities might have and dipping into those funds as well.

Councilmember Griswold concurred with Councilmember Thom's comments.

City Manager Mike Hutchinson assured the Council that he is comfortable with staff's calculations regarding this matter and also the fact that Mayor Hawker would be protected from any liability by certifying the baseline court collections.

Further discussion ensued relative to the process by which House Bill 2533 was passed, and the fact that the League of Cities and the City of Mesa were consistently opposed to the passage of the legislation.

Councilmember Jones suggested that if the Council adopts the Resolution, that a letter from the City of Mesa protesting the statute be included with the submission of the certification to the State Treasurer regarding baseline court collections.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote and Resolution No. 8092 adopted.

- \*g. Authorizing the City Manager to execute an agreement between the City of Mesa and the Governor's Office of Highway Safety for supplemental overtime for one Police Service Officer (PSO) to assist police officers with language interpretation when those officers arrest suspected DUI offenders who speak only Spanish – Resolution No. 8091.

7. Consider the following ordinances:

- \*a. **A02-8** Annexation ordinance repealing Ordinance No. 4089 and extending and increasing the corporate limits of the City of Mesa, north of Main Street and west of Power Road. (2.58± acres). Initiated by property owners. Council District 5 – Ordinance No. 4094.
- \*b. **A03-7** Annexing the northwest corner of East Florian Avenue and South Ellsworth Road. (2.86± acres). Council District 6 – Ordinance No. 4095.
- \*c. **CZ03-003TC** The property at and adjacent to 231 South Serrine Street (.53 ac.). Rezone from TCR-2 to TCB-2. This case involves the expansion of two existing businesses. owner; KRAG Properties LLC. Council District No. 4 – Ordinance No. 4096.
- \*d. **CZ03-005TC** The property at the northwest corner of Country Club Drive and Main Street. Rezone from R-1-6 and TCR-1 to TCB-1. This case is associated with Redevelopment Project Site 24. owner; City of Mesa. Council District No. 4 – Ordinance No. 4097.
- \*e. **CZ03-006TC** The property at 506 North Center Street (.54 ac). Rezone from R-2 to C-2. This case involves the development of office and studio space. owner; William Barnhart. Council District No. 4 – Ordinance No. 4098.
- \*f. Amending various sections of the Mesa City Code regarding the following traffic modifications – Ordinance No. 4099:

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

On Holmes Avenue from Greenfield Road to a point 325 feet east of Greenfield Road.

On Longbow Parkway from Higley Road to Recker Road.

Speed Limits: 10-4-3 (45 mph), 10-4-4 (40mph), and 10-4-5 (35 mph)

Establishing a speed limit of 35 mph on Longbow Parkway from Higley Road to Recker Road.

Increasing the speed limit from 40 mph to 45 mph on Thomas Road from Higley Road to Recker Road.

- \*g. Amending Section 5-3-2 of the Mesa City Code pertaining to licenses required and repealing Section 5-3-8 of the Mesa City Code pertaining to privilege license reports and collection of taxes – Ordinance No. 4100.

8. Consider the following recommendations from the General Development Committee:

- a. Approving amending Section 4-1-1(R) of the Mesa City Code relating to providing a no-step entry at all new model home complexes.

Vice Mayor Kavanaugh, as Chairman of the General Development Committee, provided the members of the Council with a brief overview of this agenda item.

Erin Patterson, 3200 East Camelback Road, a representative of the Arizona Homebuilders Association, expressed support for the recommendation of the General Development Committee and commented that the no-step entry is considered like any other option that a homebuilder would offer to a prospective homebuyer. She added that her only concern is that the proposed ordinance not be retroactive.

In response to Ms. Patterson's concerns, Deputy City Attorney Joe Padilla clarified that the proposed ordinance change is not retroactive and will take effect 30 days after Council adoption.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that the recommendation of the General Development Committee to amend Section 4-1-1(R) of the Mesa City Code relating to providing a no-step entry at all new model home complexes, be approved.

Councilmember Waters thanked Ms. Patterson for her attendance at tonight's meeting and commented that it is very meaningful that the Arizona Homebuilders Association has been involved in this matter since early on in the process.

Councilmember Thom expressed opposition to the motion and stated that it is not the purpose of the Council to tell homebuilders what should or should not be included as options in model homes.

Councilmember Jones voiced support for the motion.

Discussion ensued relative to various technical conformance criteria contained in the draft ordinance.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- \*b. Approving amending the City of Mesa's Registered Industrial Plant Program, as currently outlined in Title 4, Chapter 9, Section 1 of the Mesa City Code, and supplemented by the Uniform Administrative Code.

9. Items from citizens present.

There were no items from citizens present.

10. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:53 p.m.

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KENO HAWKER, MAYOR

ATTEST:

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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 25<sup>th</sup> day of August 2003. I further certify that the meeting was duly called and held and that a quorum was present.

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BARBARA JONES, CITY CLERK