



COUNCIL MINUTES

January 22, 2007

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on January 22, 2007 at 5:45 p.m.

COUNCIL PRESENT

Mayor Keno Hawker
Rex Griswold
Kyle Jones
Tom Rawles
Scott Somers
Claudia Walters
Mike Whalen

COUNCIL ABSENT

None

STAFF PRESENT

Christopher Brady
Debbie Spinner
Barbara Jones

Invocation by Pastor David Schorejs, Parkway Baptist Church.

Pledge of Allegiance was led by Councilmember Whalen.

Mayor Hawker recognized citizens in the audience participating in the Mesa Chamber of Commerce's Leadership, Training and Development (LTD) Class of 2007 and thanked them for their attendance. He encouraged Mesa residents who are interested in volunteer opportunities to join the Mesa LTD.

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. 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 Griswold, seconded by Councilmember Somers, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the October 24 and December 14, 2006 and January 8 and 18, 2007 Regular Council meetings.

3. Take action on the following liquor license applications:

*3a. Arizona Wing Commemorative Air Force

This is a one-day charitable event to be held on Saturday, March 17, 2007 from 4:00 p.m. to 12:00 Midnight at 2017 North Greenfield Road. (District #5).

*3b. SPG Enterprises – Banner Health Foundation

This is a one-day charitable event to be held on Friday, January 26, 2007 from 7:00 p.m. to 10:00 p.m. at 3426 East Baseline Road, Suite #101. (District #2).

*3c. Barta Market

New Beer & Wine Store License for Barta Market, 1241 East Broadway Road, Suite 20, AEM Enterprises LLC – Applicant, Ali E. Barta Manassia – Agent. The previous Beer & Wine Store license held at this location by Grewal Harpal LLC will revert back to the State. (District #4).

*3d. Circle K Store #3365

New Beer & Wine Store for Circle K Store #3365, 1959 South Greenfield Road, Circle K Stores Inc. – Applicant, Kim Kenneth Kwiatkowski – Agent. The previous Beer & Wine Store license held at this location by Reays Ranch Investors LLC will revert back to the State. (District #6).

*3e. George's Gyros & Pasta

New Restaurant License for George's Gyros & Pasta, 205 North Country Club Drive, Mario's LLC – Applicant, Angel Mikha – Agent. The previous Restaurant license held at this location by Ma Knew Her Inc., closed 01/16/2004. (District #4).

*3f. Long Wong's

New Restaurant License for Long Wong's, 1455 South Stapley Drive, Suite 23-24, JD3 LLC – Applicant, John Alfred Calderon – Agent. This is an existing business with no previous liquor licenses at this location. (District #4).

*3g. Mama Maria Mexican Food

New Restaurant License for Mama Maria Mexican Food, 118 East McKellips Road, Suite #105, Mama Maria Restaurant Inc – Applicant, Rogelio G. Laris – Agent. The previous Restaurant license held at this location by Frank & Lupe III LLC will revert back to the State. (District #1).

*3h. Zu Tokyo

New Restaurant License for Zu Tokyo, 1120 South Dobson Road, Zu Tokyo Inc – Applicant, Soo Hyun Ju – Agent. This is an existing business with no previous liquor license at this location. (District #3).

4. Take action on the following bingo application:

*4a. BINGO APPLICATION – CLASS A

Fellowship Square Brown & Center (District #1)
Karen C. Jacobson
35 West Brown Road

5. Take action on the following contracts:

*5a. One Replacement 10/12-Yard Dump Truck as requested by the Transportation Department.

The Procurement Services Department recommends accepting the low responsive bid meeting specifications from McCandless of Arizona at \$161,139.92, including applicable sales tax.

*5b. Personal Computer Equipment for Various City departments as requested by the Information Services Department. (Tax-Exempt Lease.)

The Procurement Services Department recommends authorizing the purchase of 59 Notebook Computers, 1,081 Personal Computers, 351 Monitors and associated hardware from the Western States Contracting Alliance (WSCA) contract with Dell, Inc., for a total of \$1,469,706.31, including applicable sales tax.

*5c. Regional Data Sharing Project (Mesa-Owned Fiber Optic Route) as requested by the Information Services Department. (Fully Grant Funded SHSGP/LETPP Federal Homeland Security Program.)

The Procurement Services Department recommends authorizing the purchase of materials and services from Arizona state contract with Tel Tech Networks, Inc., for a total of \$406,197.49, including applicable taxes.

*5d. 2006/2007 Crack Sealing Project, City of Mesa Project No. 06-903-001.

Each year the Transportation Department identifies roadway segments that require some measure of pavement maintenance. This project will crack seal approximately 1,953,000 square yards of street pavement Citywide.

Recommend award to the Low Bidder, CPC Construction, Inc., in the amount of \$483,620.00 plus an additional \$48,362.00 (10% allowance for change orders) for a total award of \$531,982.00. Funding for this project is available from the 06/07 Transportation Field Operations budget.

5e. 2006/2007 Surface Seal Project, City of Mesa Project No. 06-904-001.

Each year the Transportation Department identifies roadway segments that require some measure of pavement maintenance. This project will fog seal over 922,000 square yards of street pavement Citywide.

Recommend award to the Low Bidder, Cactus Transport, Inc., in the amount of \$414,810.00 plus an additional \$41,481.00 (10% allowance for change orders) for a total award of \$456,291.00. Funding for this project is available from the FY 06/07 Transportation Field Operations budget.

Mayor Hawker declared potential conflicts of interest on items 5e, 5f and 5h and said he would refrain from discussion/consideration in these agenda items. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Somers-Walters-Whalen
ABSTAIN - Hawker

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

5f. Waterline Replacements at Various Locations, City of Mesa Project No. 01-557-003.

This project will replace approximately 6,600 feet of older waterlines that have experienced an excessive break and repair history. Improvements include removal and abandonment of sections of existing waterlines and installation of new waterlines, valves, fittings, and fire hydrants.

Recommend award to the Low Bidder, Visus Engineering Construction, Inc., in the amount of \$728,420.00 plus an additional \$72,842.00 (10% allowance for change orders) for a total award of \$801,262.00. Funding for this project is available from the Water Bond program.

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

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Rawles-Somers-Walters-Whalen
ABSTAIN - Hawker

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

- *5g. Lead Based Paint Stabilization Contract for Escobedo Housing Complex (General Fund).

The Development Services Department recommends awarding the contract to the Low Bidder, KNK Diversified Inc., in the amount of \$100,000 including \$96,500 for paint stabilization activities and \$3,500 for contingency. In addition, the cost for an environmental consultant will be \$17,843 for a total cost of \$117,843. The General Fund will be reimbursed with any proceeds generated by the future disposition of Escobedo Apartments.

- 5h. Park and Ride No. 1 – Power Road at U.S. 60, City of Mesa Project No. 01-507-001.

This project will construct a new park and ride facility on the north side of U.S. 60 (Superstition Freeway) between Power Road and Superstition Springs Boulevard. Improvements include a paved parking lot and access connections from Power Road to Superstition Spring Boulevard and to the Superstition Springs Mall. This project will provide a park and ride lot for bus users to access bus routes that run along U.S. 60.

Recommend award to the Low Bidder, Nesbitt Contracting Co., Inc., in the amount of \$3,515,722.20 plus an additional \$351,572.22 (10% allowance for change orders) for a total award of \$3,867,294.42. Funding for this project is available from Federal Transit Administration (FTA) Grant funds (\$2,162,572.00), Quality of Life Sales Tax funds (\$540,645.00), and Highway User Revenue Fund (HURF) Bond funds (\$1,164,077.42).

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

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

Councilmember Rawles voiced opposition to the motion and stated that the funding earmarked for this project could be better spent addressing traffic congestion through the construction of freeways, roads and streets and not “forcing individuals to take a bus.”

Councilmember Somers commented that it is important for communities throughout the East Valley to seek alternative modes of transportation in order to reduce increased traffic congestion. He said that bus route transit has, in fact, become an effective and efficient means by which to reduce such congestion.

Vice Mayor Walters called for the vote.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters
NAYS - Rawles
ABSTAIN - Hawker-Whalen

Vice Mayor Walters declared the motion carried by majority vote of those voting.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

6. Introduction of the following ordinances and setting February 5, 2007 as the date of the public hearing on these ordinances:

- *6a. **Z07-01 (District 5)** The 2169-2183 block of North Sossaman Road (east side). Located on the northeast corner of Sossaman and McKellips Roads (4.7 ±ac.). Rezone from Maricopa County R1-35 RUPD to City of Mesa R1-35 PAD. For the establishment of City of Mesa zoning on recently annexed property. Glen Duke, Michael Parish, Borbala Csaki & Carl Lytikainen, owners; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- *6b. **Z07-02 (District 5)** The 10202-10238 block of East Broadway Road (north side). Located on the northeast corner of Broadway and Crismon Roads (2.3 ±ac.). Rezone from Maricopa County R1-8 to City of Mesa R1-9. For the establishment of City of Mesa zoning on recently annexed property. John Brauchler, owner; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- *6c. **Z07-03 (District 5)** The 9310-9346 block of East Main Street (north side). Located on the northeast corner of Main Street and Ellsworth Road (20.1 ±ac.). Rezone from Maricopa County C-3 & R-5 to City of Mesa C-3 & R-4. For the establishment of City of Mesa zoning on recently annexed property. Silver Spur MHP, LLC, Geff Gunsalas, General Manager, owner; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- *6d. **Z07-04 (District 6)** The 9030-9112 block of East Southern Avenue (north side). Located on the northwest corner of Southern Avenue and Ellsworth Road (3.17 ±ac.). Rezone from Maricopa County Rural-43 & R1-7 to City of Mesa R1-43 & R1-7. For the establishment of City of Mesa zoning on recently annexed property. Mark Kohner, owner; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- *6e. **Z07-05 (District 5)** The 6000-6400 block of East Evergreen Road (south side). Located south and east of the southeast corner of Recker and Brown Roads (6.85±ac.). Rezone from Maricopa County R1-6 SC to City of Mesa R1-6 AS. For the establishment of City of Mesa zoning on recently annexed property. Robert Dethlefs, Joseph Dziedzic, Alfred Ellis, Scott Erdman, Richard Fessler, Donald Forness, Oscar Gansky, Clayton Gourley, Ricky Hanson, Robert Jandeczek, Robert Karraker, Phyllis Kowaluk, Joseph Kuka, Sandra Legrand, Robert Lenhart, Albert Loucks, Cheesman McIntosh, David Leo Meyer, James Partida, Kathryn Pugnier, Gaither Robinson, Raymond Roslan, Victoria Rovenko, Clarence Schilperoort, Frank Shirey, Michael Stone, Darlene Taylor, Delbert Tice, Claude Torbit, Jaunita White, Joseph Wilson, owners; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

7. Take action on the following resolutions:

- *7a. Extinguishing a Drainage Retention Easement at 6735 East Encanto Street – Resolution No. 8905.

This easement is no longer required as the site plan on the property has changed and a new drainage easement has been established.

- *7b. Extinguishing a Temporary Easement for Roadway Purposes (Turn Around Easement) at East Renfield Avenue in the Mountain Horizons Unit 1 Subdivision – Resolution No. 8906.

The temporary condition for this easement is no longer needed as the development is expanding to extend East Renfield Avenue.

- *7c. Vacating an alley located in the 1900 block between West Second Place and West Second Street – Resolution No. 8907.

This alley is being vacated at the request of the adjacent property owners to better secure the area. A Public Utility and Facilities Easement will be retained for access by the utility companies.

- *7d. Providing support for the application of Affordable Rental Movement of Save the Family Foundation of Arizona (ARM) to the Maricopa Home Consortium for funding through the Federal Home Investment Partnerships CHDO Program in the amount of \$425,000 – Resolution No. 8908.

- *7e. Providing support for the application of Housing Our Communities, Inc., formerly known as Housing for Mesa, Inc. to the Maricopa Home Consortium for funding through the Federal Home Investment Partnerships CHDO Program in the amount of \$303,000 – Resolution No. 8909.

- *7f. Ratifying fees and charges for the Arts and Cultural Division to remove the reference to free second Sundays at Mesa Contemporary Arts, Arizona Museum for Youth and Mesa Southwest Museum – Resolution No. 8910.

- *7g. Approving and supporting the submittal of a grant application to the Ak-Chin Indian Community – Resolution No. 8911.

This application in the amount of \$100,000 per year over the next three years is submitted by A.T. Still University to utilize in their training of emergency medical personnel and first responders.

- *7h. Approving and supporting the submittal of a grant application to the Ak-Chin Indian Community – Resolution No. 8912.

This application in the amount of \$117,000 is submitted by A.T. Still University to initiate a Writing Assistance Laboratory on behalf of all enrolled students.

- *7i. Approving and supporting the submittal of a grant application to Ak-Chin Indian Community – Resolution No. 8913.

This application in the amount of \$80,000 is submitted by the Child Crisis Center for the construction of a new Family Resource Center to house the Children’s Behavioral Health Program.

- *7j. Approving and supporting the submittal of a grant application to the Yavapai Prescott Indian Community – Resolution No. 8914.

This application in the amount of \$50,000 is submitted by the Child Crisis Center for the construction of a new Family Resource Center to house the Children’s Behavioral Health Program.

- 7k. Approving and authorizing the City Manager to execute a second amendment to the development agreement between De Rito/Kimco Riverview, LLC and De Rito/Kimco Mesa, LLC, and the City of Mesa for the development of Phase II of the Riverview at Dobson development – Resolution No. 8915.

Mayor Hawker and Councilmember Rawles declared potential conflicts of interest and said they would refrain from discussion/consideration in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Whalen, seconded by Councilmember Jones, that Resolution No. 8915 be adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
ABSTAIN - Hawker-Rawles

Vice Mayor Walters declared the motion carried unanimously by those voting and Resolution No. 8915 adopted.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

8. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen who 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.

- 8a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

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

On Bridlewood from Guadalupe Road to a point 275 feet south of Guadalupe Road (south of Guadalupe Road and east of Sossaman Road, Council District 6).

On Indigo Street from 48th Street to a point 925 feet east of 48th Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Ingram Street from 46th Street to 48th Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Ingram Street from 48th Street to a point 900 feet east of 48th Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Ivy Street from a point 330 feet east of Greenfield Road to 48th Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Jasmine Street from 48th Street to Rochester (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Jensen Street from Parkcrest to 46th Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Julep Street from 48th Street to Rochester (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Parkcrest from Ivy Street to Jensen Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Quail from Ivy Street to Ingram Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Rochester from Jasmine Street to Julep Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On San Jose from Southern Avenue to a point 220 feet north of Southern Avenue (north of Southern Avenue and west of Dobson Road, Council District 3).

On 46th Street from Ivy Street to Jensen Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On 48th Street from McKellips Road to Ivy Street (street is located within the Mesa Commerce Center east of Greenfield Road and south of McKellips Road, Council District 5).

On Maple from Palm Street to Presidio Street (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

On Norfolk from Palm Street to Presidio Street (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

On Palm Street from Maple to Norfolk (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

On Presidio Street from Maple to Norfolk (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

On the east side of 40th Street from Presidio Street to a point 78 feet north of Presidio Street (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

On the west side of 40th Street from Presidio Street to a point 108 feet north of Presidio Street (street is located in the Commons Industrial Park north of McDowell Road and west of Greenfield Road, Council District 5).

No Parking: 10-3-24 (F 2) (No Parking between 7:00 a.m. and 4:00 p.m. on any day that the public schools of Mesa are in session)

On Abbey from Lomita Avenue to Los Lagos Vista Avenue (south of Baseline Road and east of Crismon Road, Council District 6).

On Lomita Avenue from Abbey to Labelle (south of Baseline Road and east of Crismon Road, Council District 6).

Mayor Hawker advised that a citizen removed this item from the consent agenda.

Cathy Hilton, 1260 East Downing Street, stated that her comments relate to the 48th Street area within the Mesa Commerce Center. She indicated that as an independent truck operator, it is difficult to find a place to park her commercial truck within the Mesa Commerce Center three to five days a month. Ms. Hilton acknowledged that property owners within the Commerce Center park their vehicles on their private property, but voiced concern regarding her ability and the ability of other independent truckers to continue to park their vehicles in the area if the City prohibits street parking.

Deputy Transportation Director Dan Cleavenger addressed the Council and provided a brief overview of this item. His comments included, but were not limited to, the following: that the installation of a full-time parking prohibition is being requested by the Mesa Commerce Center in an effort to restrict long-term parking of commercial trucks and truck trailers on the streets within the industrial park; that the property management company mailed a copy of the petition for the proposed full-time parking prohibition to all of the property owners in Mesa Commerce

Center and approximately half of the owners agreed with a full-time parking prohibition; that staff recommends posting "No Parking" signs adjacent to only those properties whose owners agreed with the parking prohibition; that in order to reduce the time needed to add isolated or segmented properties within the Center to the parking prohibition in the future, staff further recommends the ordinance include continuous street segments throughout the industrial park; and that the prohibition is additionally being requested to support the on-street parking restrictions stated in the Mesa Commerce Center's Covenants, Conditions and Restrictions (CC&Rs).

Vice Mayor Walters requested that staff research the City's policy with regard to the length of time that a truck can be parked on a City street. She also noted that although she does not disagree with staff's recommendation, she is uncomfortable with the notion of the Council approving an ordinance that would include continuous street segments throughout the Commerce Center even if staff only posts "No Parking" signage along the frontage of those property owners who were in support of such action. She added that before she could vote on this issue, she would like to know in what areas of the Mesa Commerce Center staff would establish a full-time parking prohibition.

Discussion ensued relative to the fact that when this issue was presented to the Transportation Advisory Board (TAB), the staff report specifically listed each property in which a "No Parking" sign would not be posted; that the proposed ordinance would restrict any kind of parking on the public right-of-way within the Commerce Center; and that the City does not enforce the Mesa Commerce Center's CC&Rs.

Mr. Cleavenger displayed a map demonstrating those areas within the Mesa Commerce Center that staff is recommending to establish a full-time parking prohibition.

Councilmember Rawles suggested that staff redraft the ordinance to either establish a full-time parking prohibition at specific areas of the Mesa Commerce Center or that it include the entire industrial park.

In response to Councilmember Rawles' comment, Mr. Cleavenger stated that staff would be happy to take the matter back to the TAB for further discussion and consideration. He also indicated that in addition to the Mesa Commerce Center parking prohibitions, the ordinance also includes the establishment of various full-time parking prohibitions within the Commons Industrial Park.

Ms. Spinner suggested that the Commons Industrial Park restrictions be brought forward to the Council in a separate ordinance that could be introduced at the February 5, 2007 Regular Council meeting.

Councilmember Jones expressed concern regarding "selective parking restrictions" and stated that such a concept could pose challenges for the City.

Mr. Brady recommended that the entire ordinance be tabled and reintroduced at a future Regular Council meeting.

- *8b. **A06-23 (District 5)** Annexing land located on Sossaman Road north of McDowell Road (1.21 ± ac). Initiated by the property owner, Las Sendas Community Association – Ordinance No. 4660.
- *8c. **A06-25 (District 5)** Annexing land located on McKellips Road west of Crismon Road (1.06 ± ac). Initiated by the property owner, Alan Saquella – Ordinance No. 4661.
- *8d. **Z06-94 (District 6)** The 7800 to 8000 block of East Pecos Road (south side). Located east of the southeast corner of Pecos and Sossaman Roads (19.11 ± ac.). Site Plan Review. This request will allow for the development of industrial offices/warehouses. Roger Buttrum, owner; Michael Hill, applicant – Ordinance No. 4662. **(Notified property owners.)**

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

- *8e. **Z06-95 (District 6)** The 1200 block of South Crismon Road (east side). Located south and east of Southern Avenue and Crismon Road (2.9 ± ac.). Site Plan Modification. This request will allow for the development of two commercial buildings. VJ Crismon, LLC – Vance Marshall, owner; Saemisch DiBella Architects, Inc. – Vince DiBella, applicant – Ordinance No. 4663. **(Held one neighborhood meeting, notified property owners, registered neighborhoods and homeowners' associations.)**

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

- 8f. **Z06-96 (District 5)** The 3550 block of East McDowell Road (north side). Located at the northwest corner of McDowell Road and Val Vista Drive (1.57 ± ac.). Rezone from R1-35 to O-S and Site Plan Review. This request will allow for the development of office condominiums. ManCo Investments (Charles J. Mannino), owner; Daniel W. Brock, applicant – Ordinance No. 4665. **(Held two neighborhood meetings, notified property owners, registered neighborhoods and homeowners' associations.) LEGAL PROTEST FILED. ¾ VOTE REQUIRED.**

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

It was moved by Vice Mayor Walters, seconded by Councilmember Rawles, that Zoning Case Z06-96 be approved and Ordinance No. 4665 adopted.

Carried unanimously.

- 8g. **Z06-98 (District 1)** The 900 to 1100 blocks of North Dobson Road (west side). Located at the southwest corner of the Loop 202 Red Mountain Freeway and Dobson Road. (32.4 ± ac.) Rezone from C-3 to C-3 PAD and Site Plan Review. This request will allow the development of three auto dealers and an auto body shop. Richard L. Nelson, Vice President, owner; Trenton Jones, applicant – Ordinance No. 4666. **(Notified property owners, registered neighborhoods and homeowners' associations.)**

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

Mayor Hawker and Councilmember Rawles declared potential conflicts of interest and said they would refrain from discussion/consideration in this agenda item. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Griswold, seconded by Councilmember Jones, that Zoning Case No. Z06-98 be approved and Ordinance No. 4666 adopted.

Upon tabulation of votes, it showed:

AYES - Griswold-Jones-Somers-Walters-Whalen
ABSTAIN - Hawker-Rawles

Vice Mayor Walters declared the motion carried unanimously by those voting and Ordinance No. 4666 adopted.

- *8h. **Z06-99 (District 5)** The 200 to 300 block of North Power Road (east side). Located south of University Drive on the east side of Power Road (1.94 ± ac.). Site Plan Review. This request will allow for the development of a car wash. Michael E. Scarbrough, Quick N Clean, owner/applicant – Ordinance No. 4664. ***(Notified property owners, registered neighborhoods and homeowners' associations.)***

P&Z Recommendation: Approval with conditions. (Vote: 4-2 with Boardmembers Adams and Mizner nay, Esparza absent)

8.1 Hear, discuss and take action on appeal of the following Design Review Board cases:

- 8.1a. **Case DR06-113**, Falcon 7 Executive Hangars, located at the northwest corner of McKellips Road and Falcon Drive.

DRB Recommendation: Denial.

Planning Director John Wesley reported that at today's Study Session, the Council was provided additional documentation by the applicant with regard to this case. He explained that after reviewing such documentation, staff recommends approval of the case with the following conditions: 1.) That the applicant continues to work with staff on the corner of McKellips Road and Falcon Drive in an effort to make minor adjustments to the building to provide more emphasis and various courtyard treatments at that intersection; and 2.) The applicant continues to work on the landscape plan to ensure that it follows through on the rendering that the Council reviewed earlier today.

John Manross, the applicant, agreed to the conditions outlined by Mr. Wesley.

It was moved by Councilmember Griswold, seconded by Vice Mayor Walters, that Case DR06-113 be approved.

Councilmember Griswold commented that this case represents a major employment project for Falcon Field Airport and said that he looks forward to its completion.

Mayor Hawker called for the vote.

Carried unanimously.

8.1.b. **Deleted.**

8.1c. **Deleted.**

8.1d. **Deleted.**

8.1e. **Deleted.**

9. Consider amending and give direction to staff on the South Canal Multi-Use Path Project.

The Transportation Committee recommended removing the lighting and retaining the asphalt in the plans.

Councilmember Somers, Chairman of the Transportation Committee, provided a brief recap of the December 20, 2006 Committee meeting, at which time residents in the Lehi area were provided an opportunity to offer input concerning the proposed South Canal Multi-Use Path Project. He explained that subsequent to receiving public comment and staff responding to various inquiries, the Committee voted 2-1 that the lighting be removed from the plans for the project and the asphalt be retained.

Councilmember Griswold stated that at the December 20th meeting, he also made a motion (which failed for lack of a second) to recommend to the Council that the South Canal Multi-Use Path Project be cancelled. He stated that he sees no reason why the project should move forward if numerous Lehi residents oppose it.

Mayor Hawker commented that the Council looks forward to hearing from all of the citizens who have submitted speaker cards, but requested that everyone be respectful of the individuals as they offer their comments and concerns.

(Citizen comments are listed according to the position expressed by the speaker and not necessarily in the same order as presented.)

Citizens speaking in support of the project are listed below:

Hank Woodrum	2250 East Kenwood Street
Charles Hammen	5735 East McDowell Road, # 419
Dean Clarkson	2707 North Stapley Drive
Jeff Rush	2625 North 24 th Street
Steve Davidson	1533 East Hermosa Vista Drive
Kendall Brown	2137 North Alamo Circle
Tanner Mennenga	2138 East Leland Circle
Pam Ripley	2523 East Nance Street

Comments presented in support of the project include the following:

- The Multi-Use Path would provide joggers with an alternative to running on the streets.
- Lights would increase safety and security on the canal.
- The path would benefit all Mesa residents and not just Lehi residents.
- It may be appropriate to place the path on the south side of the canal.
- Asphalt pavement would improve dust and noise control.
- A well designed trail network would be a positive amenity for the City of Mesa.
- Residing near a multi-use path would be a positive asset for nearby homeowners.

Kevin Rogers, 916 East Sorenson, Past President of the Lehi Community Improvement Association, stated that this project would significantly interfere with Lehi's quality of life. He commented that for decades, neighbors in the area have used the canal to ride horses and noted that an asphalt pathway is not an appropriate surface on which horses should walk. Mr. Rogers also noted that the project would be well suited for high-density areas where the canal is situated at the same elevation as the neighborhoods surrounding it. He added that including lights in the project would be inconsistent with the Lehi Sub-Area Plan.

Additional citizens who came forward to speak in opposition to the South Canal Multi-Use Path Project:

Conrad H. Liston	2311 East Kenwood Street
Christopher Lambly	2451 North Terrace Circle
Alan Otto	2418 North Harris Drive
Dane Jackson	153 South Mesa Drive
Theresa Carmichael	2451 North Terrace Circle
Colin Fairclough	1439 East Hermosa Vista Circle
Jack Hough	1326 East Anasazi
Bob Warrick	2663 North Chestnut Circle
Luke Rodham	2154 North Stapley Drive
Kevin Gibbons	2606 North Hall Circle
Terry Trendler	2526 East Omega Circle
Jason Laflesch	2418 North Harris Drive
Jacque Campbell	1008 North Revere
John Bell	1804 East Lehi Road
John Moffitt	2436 North Lazona Drive

Comments made in opposition to the project include the following:

- The proposed ten-foot wide pathway is unacceptable.
- Lights and horses are not compatible.
- Lehi residents would be willing to work with the City to assist in beautifying the canal.
- The project would increase crime and traffic along the canal.
- Lighting would obstruct the views from the hillside homes situated above the canal.
- The peace and tranquility of the Lehi neighborhood would be impacted as a result of the project.
- Property values in the area could decrease because of the multi-use path.
- The condition of the existing canal path is adequate for joggers and bicyclists.

- ATVs and motorized vehicles should be prohibited along the canal.
- The availability of Federal funding for the project does not justify its implementation.
- A parking lot at “Dead Man’s Curve” would be unacceptable.

Discussion ensued relative to the fact that the City received \$1.5 million in Federal funds from the Congestion Mitigation & Air Quality (CMAQ) Program, which must be utilized for bicycle and pedestrian facilities; that the South Canal Multi-Use Path Project qualifies for such funding; that local funding for the project consists of \$94,200 from Quality of Life (QOL) sales tax revenues; and that the City would be responsible to maintain the pathway at an estimated cost of \$8000 per mile annually.

Mayor Hawker stated that the following individuals completed speaker cards in opposition to the project, but did not wish to address the Council:

Robert/Patricia Postle	1021 East Knoll Street
Lori A. Otto	2418 North Harris Drive
L. Felgemaker	1061 East Knoll Street
Patricia Felgemaker	1061 East Knoll Street
Dawn M. Garcia	1045 East Knoll Street
Ronald S. Garcia	1045 East Knoll Street
Larry Pew	1564 East Lehi Road
Suzanne Gibbons	2606 North Hall Circle
Phil & Elaine LaCombe	2457 West Terrace Circle
Shirley A. Lemley	2559 North Brimhall Street
Ronald L. Lemley	2559 North Brimhall Street
Kathie Trendler	2526 East Omega Circle
Ann & Dave Bowers	2162 North Stapley Drive
Dennis Miller	2146 North Stapley Drive

There being no further citizens wishing to speak on this item, Mayor Hawker declared the public hearing closed. He expressed appreciation to everyone in the audience for their civility and courtesy during the process.

Extensive discussion ensued relative to the fact that the north side of the canal was chosen for the Multi-Use Path as a result of negotiations between the City and ADOT; that the freeway underpasses are located on the north side of the canal at Gilbert Road; that staff would correct inconsistencies on the City’s website related to the maintenance of the entire project; that all terrain vehicles (ATVs) and other motorized vehicles should be prevented access along the canal; that erosion occurring along the canal bank (outside of the ten-foot pathway) is maintained by Salt River Project (SRP); and that it would also be appropriate for the City’s Transportation Division to address the issue of “Dead Man’s Curve.”

Vice Mayor Walters commented that a key component of the Lehi Sub-Area Plan was that the neighborhood would be allowed to maintain its “night sky and rural feel.” She expressed opposition to including lighting along the pathway because the “distinct flavor” of the community would be altered if that were to occur.

Councilmember Rawles noted that when this project came before the Council several months ago, he voted against it because, in his opinion it was inappropriate for the City to use CMAQ

money to provide a path for individuals who do not use it to reduce congestion. He stated that he has not heard any comments tonight that would lead him to believe there would be "one iota" of traffic mitigation as a result of utilizing these funds. Councilmember Rawles said he would continue to oppose the project and suggested that it may be appropriate for Lehi residents to work with SRP to improve the trail to their specifications.

In response to a question from Mayor Hawker, City Attorney Debbie Spinner clarified that because of the manner in which this matter is agendized, it is unnecessary for the Council to take a formal vote, although they may do so if they so desire. She indicated that staff is merely seeking Council direction whether to include lighting or asphalt as components of the contract.

In response to a question from Councilmember Whalen, City Engineer Keith Nath clarified that the Council previously approved that the City enter into an Intergovernmental Agreement (IGA) with ADOT to proceed with the project. He explained that if the Council removes the asphalt from the project, ADOT and the Federal Highway Administration have indicated that the City would not be eligible for grant funding. Mr. Nath added that if the lighting were removed from the project, the City's \$1.5 million in Federal funds would be reduced by \$700,000 and reallocated throughout the region for other CMAQ projects.

Mayor Hawker expressed support that the lighting be removed from the plans for the South Canal Multi-Use Path Project, that no light conduit or pull boxes for the light fixtures be installed, and that the asphalt be retained in the plans. He noted that Mesa has an extensive canal network and envisions the network being used by citizens as an alternative route to traveling along surface streets.

Councilmember Jones voiced support for the project including a "minimum pathway of asphalt," no lighting along the pathway, appropriate gating to restrict the use of ATVs and motorized vehicles along the canal, and adequate signage outlining such restrictions.

Councilmember Whalen advised that he currently has a client of his security business whose home is in close proximity to the canal. He stated that although he most likely does not have a conflict of interest with regard to this matter, he wanted the record to reflect that he would not vote one way or another because of the location of that individual's residence.

Ms. Spinner commented that with the limited facts presented by Councilmember Whalen, it is difficult for her to give a formal opinion whether he would have a conflict of interest. She cited various sections of the State Statute and the "Ethics Handbook for Elected Officials" to provide Councilmember Whalen with guidance regarding his inquiry.

Councilmember Whalen explained that because of the creation of the Lehi-Sub Area Plan and the efforts of Lehi residents to develop the document, he is opposed to the South Canal Multi-Use Path Project. He noted that he could not support the pathway unless it included lighting to protect citizens against various criminal elements in the area. Councilmember Whalen suggested that staff assess other areas of the community that would welcome such a pathway. He also stated that it is important for the County and ADOT to know that if the Council does not approve the implementation of a project in an area of the City where it would not be compatible, then Mesa should not be penalized regarding the funding for the project.

Vice Mayor Walters expressed opposition to installing lights along the pathway, but would support the installation of asphalt. She said that the Multi-Use Path would create a trailway connection to the Granite Reef Dam, which, in her opinion, would be an important connection for Mesa's future. Vice Mayor Walters added that ATVs and motorized vehicle access along the canal must be stopped, but questioned how best to address the matter.

In response to a question from Vice Mayor Walters, Mr. Nath clarified that if the Council eliminated the lighting from the plan and only retained the asphalt, the City's match would equal 5.6% of the \$800,000 cost (approximately \$50,000).

Councilmember Griswold expressed opposition to the South Canal Multi-Use Path Project. He stated that it is not necessary to pave all trails, but noted that with regard to this particular pathway, it would be important to maintain its access and right-of-way.

Councilmember Somers voiced support for the South Canal Multi-Use Path Project, but urged staff to work on its design. He commented that the proposed location for the asphalt pathway was to move it away from the canal for safety reasons, but indicated that he would prefer to see it moved closer to the canal. Councilmember Somers suggested that the asphalt pathway be as narrow as possible to provide "a 50/50 split" so that the horses would have the widest space possible. He also voiced opposition to the installation of lighting along the pathway.

It was moved by Mayor Hawker that staff be directed to modify the South Canal Multi-Use Path Project contract to eliminate the lighting, the conduit and pull boxes for light fixtures (in the future), and that asphalt be retained in the plans for the project.

Ms. Spinner reiterated that the Council is not amending the agreement because the IGA with ADOT is already in place. She suggested that it would be more appropriate for the Council to direct staff to ensure that when the contract goes out to bid, it does not include provisions requiring the conduit for the lighting or the lighting itself and that the asphalt would be retained in the plans.

Mayor Hawker restated his motion as follows: that when the contract for the South Canal Multi-Use Path Project goes out to bid, that the lighting be removed from the plans and the asphalt be retained in the plans.

Vice Mayor Walters seconded the motion.

Councilmember Jones confirmed that the Council's direction was to minimize the finished surface of the pathway for joggers and bicyclists and leave the remainder of the trail as it currently exists to accommodate the horses.

City Manager Christopher Brady clarified that staff would attempt to minimize and keep the pathway within the confines of what is allowed under the Federal grant guidelines.

Mr. Nath informed the Council that staff already reduced the width of the pavement from twelve feet to ten feet and stated that ADOT and the Federal Highway Administration would not support decreasing the width less than ten feet.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

(Speakers addressed this matter under Item 11, Items from citizens present.)

Vice Mayor Walters stated that in light of the comments she just heard, she is uncomfortable with the Council's action regarding this issue. She stated that it is not acceptable to her to make the pathway unusable for those individuals who currently ride horses along the canal.

In response to an inquiry from Vice Mayor Walters, Ms. Spinner clarified that under the City Code, the Council could make a motion to reconsider their decision with regard to this issue and said that a new motion could then be made.

Mr. Brady suggested that staff proceed with the Council's action and meet with ADOT and the residents in an effort to assess whether the asphalt could be placed closer to the canal. He assured the Council that staff would also work with SRP to assess the feasibility of increasing the sides on the outside of the bank. Mr. Brady added that staff would not give ADOT the "green light" to allow the contract to go out for bid until those issues were addressed.

Vice Mayor Walters stated that if the residents' concerns were not adequately addressed, then she would bring back this item for reconsideration.

Discussion ensued relative to the pros and cons of Council making a motion for reconsideration at this time; that staff would bring back the item to the Council at a Study Session to present modifications, if any, that could be made to the current plan and if accommodations could be made for the equestrian usage; and that if the Council was satisfied by those modifications, the project would move forward.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that the Council reconsider the issue of the South Canal Multi-Use Path Project.

Carried unanimously.

It was moved by Vice Mayor Walters, that the lighting be removed from the plans for the South Canal Multi-Use Path Project and that the asphalt be retained in the plans only if the City can accommodate the equestrian usage in a safe manner.

Councilmember Rawles suggested that it may be more appropriate for the Council to simply direct staff to meet with ADOT to address the previously mentioned concerns and then come back to the Council with the results of their inquiries, at which time the Council would vote on this item.

Vice Mayor Walters rephrased her motion and moved that staff be directed to meet with ADOT to determine if the City can accommodate the equestrian usage along the South Canal Multi-Use Path in a safe manner.

In response to a question from Councilmember Griswold, Ms. Spinner clarified that staff would come back at a Regular Council meeting to seek direction or to take a formal vote regarding this issue.

Councilmember Somers seconded the motion.

Additional discussion ensued among the Council regarding the focus of staff's research and inquiry concerning this item.

Ms. Spinner restated the motion as follows: that staff be directed to meet with ADOT, Lehi residents and all of the parties involved to determine whether it is possible to accommodate equestrian traffic and pedestrians in a manner that would allow asphalt to be on the pathway, and that staff come back to the Council to report on such findings.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

10. Take action on the following subdivision plats:

10a. "SANCTUARY ON SUNVALLEY", (**District 5**) 100-200 blocks of North Sunvalley Boulevard (east side) located north and west of Main Street and Sossaman Road. 30 R-2 PAD townhome lots (2.6 ac) Ross Farnsworth, Jr., owner.

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

It was moved by Councilmember Griswold, seconded by Councilmember Somers, that the "Sanctuary on SunValley" subdivision plat be approved.

Upon tabulation of votes, it showed:

AYES - Hawker-Griswold-Rawles-Somers-Walters-Whalen
ABSTAIN - Jones

Mayor Hawker declared the motion carried unanimously by those voting.

*10b. "BRIANNA ESTATES AT DANA RANCH", (**District 2**) 3300-3500 blocks of East Southern Avenue (south side) located south and west of Southern Avenue and Val Vista Drive. 11 R1-15 PAD single residence lots (7.86 ac) Curt and Lola Dana and W.C. Dana Company, Curt Dana, member, owners.

11. Items from citizens present.

Kevin Rogers, 916 East Sorenson, expressed a series of concerns relative to Council's action regarding the South Canal Multi-Use Path Project (Agenda item 9.) He commented that if the asphalt were placed in the center of the pathway, it would leave only three or four feet between the edge of the asphalt or the embankment. Mr. Rogers noted that because it is difficult for horses to walk on asphalt, the animals would be required to walk very close to the edge of the canal, which could result in the horses or riders falling into the water. He suggested that between McKellips Road and Gilbert Road, it would be appropriate to move the asphalt closer to the canal in order to provide the horses with sufficient space to walk along the canal and not compete with bicyclists or joggers.

Larry Pew, 1564 East Lehi Road, concurred with the comments of the previous speaker. He reiterated that if the asphalt were placed in the middle of the 10-foot pathway, it would create a dangerous situation for individuals riding horses.

12. Adjournment.

Without objection, the Regular Council Meeting adjourned at 8:35 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 22nd day of January 2007. 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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