

## COUNCIL MINUTES

March 1, 2004

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on March 1, 2004 at 5:47 p.m.

### COUNCIL PRESENT

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

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Mike Hutchinson  
Debbie Spinner  
Barbara Jones

Invocation by Reverend Chris Carpenter, Pastor, Christ The King Catholic Church.

Pledge of Allegiance was led by Vice Mayor Kavanaugh.

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 Griswold, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the February 12, 2004 Special City Council meeting and the February 17, 2004 Regular Council meeting.

3. Conduct a public hearing and consider an amendment to the land use map for the following Minor General Plan Amendment.

Mayor Hawker announced that this is the time and place for a public hearing regarding an amendment to the land use map for the following Minor General Plan Amendment:

- a. **GPMInor04-01 (District 2)** Southwest corner of Southern Avenue and Lindsay Road (21.02± ac.). Change to the General Plan Land Use Map from Office and Medium Density Residential (MDR 4-6) 4-6 dwelling units per acre to Medium Density Residential (MDR 6-10) 6-10 dwelling units per acre. **COMPANION CASE - Z04-08. (See Items 7i and 9a)**

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

4. Conduct a public hearing on the proposed FY 04/05 CDBG/HOME/ESG programs.

Mayor Hawker announced that this is the time and place for a public hearing regarding the proposed FY 04/05 CDBG/HOME/ESG programs (see Attachments 1 and 2).

The following individuals spoke in support of FY04/05 funding requests:

- Dan Taylor, 2112 N. Ashbrook, Executive Director of Mesa Senior Services, regarding funds for the Mesa Senior Center at 247 N. MacDonald.
- Tina Morgan, 1720 N. Abner, Board President of the Neighborhood Economic Development Corporation (NEDCO), relative to their core contract and funds for the Mesa Grande Community Alliance revitalization project.
- Alma Pesqueira, 634 N. Date Street, a member of the Mesa Grande Community Alliance, regarding additional funding to enable the group to achieve their goals.
- Pat Gilbert, Executive Director of Mesa Community Action Network (CAN), 635 E. Broadway, relative to two projects: 1) partnering with the Residents in Action tenants' group at the University Apartments to develop a co-housing project, and 2) the renovation of the building at 635 E. Broadway.
- Lourdes Peinado, Carla Gonzales and Patricia Medina, residents of the University Apartments at 8146 E. University and members of Residents In Action, relative to their support for Mesa CAN and the co-housing project.
- Barb Peacock, 3048 E. Edgewood Avenue, representing Mesa Sports for the Disabled, regarding funding for the installation of an air conditioning system in the Broadway Recreation Center.

Mayor Hawker noted that the \$150,000 required to air condition the Broadway Recreation Center is not included in the proposed funding recommendation.

Jack Hannon, 736 S. MacDonald, completed a speaker card indicating his support for the CDBG funding, but he did not wish to address the Council.

The Mayor declared the public hearing closed.

5. Consider the following contracts:

- \*a. Fifty-eight emergency response respirator suits as requested by the Fire Department.  
  
The Purchasing Division recommends accepting the low bid by Geomet Technologies, LLC at \$63,608.50 including applicable use tax. (This purchase is 100% funded by a grant fund from the U.S. Department of Justice.)
- \*b. Three-year supply contract for tent, table and chair rentals as requested by the Parks & Recreation Division.  
  
The Purchasing Division recommends accepting the lowest overall bid by Arizona Rentals for estimated annual requirements of \$42,000.00.
- \*c. Training room furniture for the Transportation Building as requested by Development Services.  
  
The Purchasing Division recommends accepting the low bid meeting specification by Office Depot at \$10,909.92 including applicable sales tax.
- \*d. Two upgrade Zumro shelters as requested by the Fire Department. These shelters would be set up in the event of a nuclear, biological or chemical incident and would provide decontamination to the citizens of Mesa.  
  
The Purchasing Division recommends accepting the only bid by Lee Bays Supply at \$68,321.64 including applicable use tax. Lee Bays Supply is the only authorized distributor in Arizona for the Zumro shelters and related parts. (This purchase is 100% funded by a grant from the U.S. Department of Justice. **(Sole Source)**)
- \*e. Mesa City Plaza 8<sup>th</sup> Floor Remodel. City of Mesa Project No. 03-906-001.  
  
This project removes and relocates doors, walls, mechanical, electrical, and fire protection devices located in the City Attorney's office.  
  
Recommend award to low bidder, T.I. Specialists Inc, in the amount of \$13,250.00 plus an additional \$1,325.00 (10% allowance for change orders) for a total award of \$14,575.00.
- \*f. Hardwood flooring for Gallery Exhibit Room in Southwest Museum. City of Mesa Project No. 03-912-001.

This project provides installation of approximately 1,800 square feet of solid hardwood maple flooring in the Gallery Exhibit Room of the Mesa Southwest Museum.

Recommend award to low bidder, Arizona Hardwood Floor Inc., in the amount of \$22,928.43 plus an additional \$2,292.84 (10% allowance for change orders) for a total award of \$25,221.27.

6. Introduction of the following ordinances and setting March 15, 2004, as the date of public hearing on the ordinances:

- \*a. **Z03-58 (District 5)** Southwest corner of Recker Road and McDowell Road. (1.56± ac.) Site Plan Modification. This request is for the development of a Quik Trip convenience store. Quik Trip Corporation; owner/applicant. **(2 ordinances) (CONTINUED FROM THE FEBRUARY 2, 2004 AND FEBRUARY 17, 2004 CITY COUNCIL MEETINGS).**

7. Consider the following resolutions:

- \*a. Authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Transportation and the City of Mesa for the design of the Smart Corridor Traffic System along Broadway Road from Center Street to Recker Road - Resolution No. 8191.
- \*b. Authorizing the City Manager to execute an Intergovernmental Agreement between the Arizona Department of Transportation and the City of Mesa for the construction of the Smart Corridor Traffic System along Broadway Road from Center Street to Recker Road - Resolution No. 8192.
- \*c. Authorizing the City Manager to execute an Intergovernmental Agreement between the Town of Gilbert and the City of Mesa for the Design and Construction of the Germann Road Sanitary Sewer Line from Menlo Park Drive to the East Maricopa County Floodway - Resolution No. 8193.
- \*d. Extinguishing a Temporary Retention Easement located west of the southwest corner of Baseline Road and Crismon Road - Resolution No. 8194.

This temporary retention easement is no longer required.

- \*e. Vacating Public Roadway at 7<sup>th</sup> Street, West of North Robson Street - Resolution No. 8195.

This right-of-way is no longer required.

- \*f. Extinguishing a Gas Line and Right-of-Way Easement - Resolution No. 8196.

These easements are located in Pinal County and no longer required.

- \*g. Extinguishing a portion of a Public Utility Easement on West Pecos Avenue - Resolution No. 8197.

The portion of this easement is no longer required.

- \*h. Authorizing the City Manager to execute Amendment #2 of the Intergovernmental Agreement between the State of Arizona through the Department of Commerce and the City of Mesa for weatherization services - Resolution No. 8198.

- i. **GPMinor04-01 (District 2)** Southwest corner of Southern Avenue and Lindsay Road (21.02± ac.). Adopting an amendment to the Mesa 2025 General Plan, A Shared Vision, as depicted by the attached map for case GPMINOR04-01, and directing municipal efforts toward implementation of the goals, objectives, and policies stated within the plan - Resolution No. 8199.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Resolution No. 8199 be adopted.

Councilmember Thom requested clarification relative to the fact that the commercial application has been removed from the parcel.

John Perkinson, 4222 E. McLellan, the applicant, noted that the plan for this difficult parcel originally included a Quik Trip with surrounding town homes. He advised that the neighbors, including residents, churches and a charter school, opposed the commercial component, and the present plan was accepted by the majority of the neighborhood and City staff. Mr. Perkinson expressed the opinion that the project had more value with the commercial component, but the current plan would provide a good development for the area.

Councilmembers Griswold, Jones, Walters, Whalen and Vice Mayor Kavanaugh complimented Mr. Perkinson on his efforts to plan a development that addressed the concerns of the neighborhood.

In response to concerns expressed by Councilmember Whalen, Development Services Manager Jack Friedline stated that the roadway and turn lanes related to the project will comply with the Transportation Plan. He also advised that staff will investigate possible over crowding at the bus stop that is utilized by the charter school students.

Mayor Hawker called for the vote.

Carried unanimously.

- j. Deleted.

8. Consider the following ordinance:

- \*a. **A03-8 (District 5)** Annexing the southeast corner of East Main Street and South Signal Butte Road. (62.2± ac.). Initiated by the property owners (See list of owners in the packet) - Ordinance No. 4158.

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

- a. **Z04-08 (District 2)** Southwest corner of Southern Avenue and Lindsay Road (21.02± ac.). Rezone from O-S, C-1, R1-7 to R-2 PAD. This request is for the development of a residential subdivision. Perkinson Investments, owner; Lindsay Park Townhomes, (Ted Sarhangian) L.L.C., applicant - Ordinance No. 4162. **COMPANION CASE – GPMInor04-01.**

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

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)
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. View fences on residential lots shall comply with the City of Mesa pool fence barrier regulations.
6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Ordinance No. 4162 be adopted.

Carried unanimously.

- b. **Z03-69 (District 3)** 500 West Southern Avenue, Suite 33. West of Country Club Drive and north of Southern Avenue (3.90± ac.). Council Use Permit. This request is for the development of a pawn shop. Stuart Schneider, owner; Mark Gonshak, applicant - Ordinance No. 4163. **(CONTINUED FROM THE FEBRUARY 2, 2004 CITY COUNCIL MEETING).**

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

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, preliminary plat and elevations submitted except as noted below.
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. Administrative review and approval of tenant space exterior building elevations and site landscaping improvements through Design Review Board Staff.

5. Super Pawn will not pawn, buy or sell any type of firearms at this location.
6. This Council Use Permit is non-transferable and terminates upon the transfer of the property to any other operator other than Super Pawn.
7. Super Pawn will not pawn, buy or sell adult material.

Larry Lazarus, One Arizona Center, 400 E. Van Buren, Phoenix, representing the applicant, stated that three additional stipulations, numbers 5, 6 and 7, have been added as requested by the Council.

Mark Gonshak, 9316 N. Central Avenue, Phoenix, Super Pawn District Manager, completed a speaker card indicating support for this item, but he did not wish to address the Council.

In response to Councilmember Walters' request that future Council Use Permits include the stipulation that the permit is non-transferable and terminates upon the transfer of the property, Planning Director John Wesley confirmed that staff would include that stipulation.

Councilmember Thom expressed the opinion that Super Pawn would set the standard for pawnshops, and she welcomed the business to the City of Mesa.

Councilmember Griswold advised that Super Pawn's computer system enabled the Police Department to access pawn ticket information in an efficient and cost-effective manner.

It was moved by Councilmember Jones, seconded by Councilmember Griswold, that Ordinance No. 4163 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- \*c. **Z03-70 (District 2)** 4150 East Main Street. East of Val Vista Drive and north of Main Street (15.95+ ac.). Site Plan Modification. This request is for the development of an apartment complex. Roberto Ruiz, owner; Sean Lake, applicant - Ordinance No. 4159.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot yield, building count, lot coverage) except as noted below.
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 or at the time of the City's request for dedication whichever comes first.

5. All street improvements and perimeter landscaping to be installed in the first phase of construction.
  6. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.
- d. **Z04-02 (District 5)** Northwest corner of Recker Road and Loop 202 Freeway (24.78± ac.). Rezone from R1-90 and AG to M-1. This request is to bring zoning into conformance with Mesa 2025 General Plan. City of Mesa, owner; Wayne Balmer, Project Manager WGAA, applicant - Ordinance No. 4164.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

1. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
2. Compliance with all City development codes and regulations.

Robert M. McNichols, 5601 E. Longbow Parkway, owner of the adjacent property that is master planned for development as Longbow Business Park, outlined the requirements and conditions imposed relative to obtaining zoning approval for his property. He noted that the subject case has been reduced to two conditions and expressed the opinion that the applicant could be receiving special treatment. Mr. McNichols indicated support for rezoning the subject property to M-1, but suggested that the property should be required to comply with the same 16 conditions that were applied to his zoning case. He noted that the objectives for the subject City of Mesa parcel and the Longbow Business Park property were the same in that both parcels were being prepared for sale. Mr. McNichols requested that the City address all properties in the area in a similar manner.

Mark Dioguardi, Tiffany & Bosco, 2525 E. Camelback Road, Phoenix, completed a speaker card indicating support for this item, but he did not wish to address the Council.

Williams Gateway Regional Economic Activity Area Project Manager Wayne Balmer stated that the subject case proposes to rezone City of Mesa property to M-1 to be consistent with the General Plan and as the first step in preparing the property for sale. He noted that conditions vary from case to case, and that a development plan does not presently exist due to the fact that the City does not plan to develop the property. Mr. Balmer explained that the purchaser would be required to present a development plan as a condition of the sale. He outlined several factors in Mr. McNichols' case that required different conditions: a subdivision plat, a bonus intensity zone, abrogation of easements for the airport, noise attenuation in the construction, landscaping of storage yards, and different setbacks for some of the projects. Mr. Balmer advised that prior to closing escrow on the sale of the subject property, the Council would have the opportunity to approve the development plan.

Discussion ensued relative to the fact that the a requirement for abrogation easements or noise attenuation would depend on the type of development that is proposed; that concern exists when citizens perceive that the City is held to a different standard; that site plan approval would require citizen participation as a condition of the sale; that specific conditions required of Mr. McNichols are now included as standard requirements; that the Council would like assurance

that the approval process provides a level playing field for all applicants; that site plan approval is included under stipulation two in the subject case; and that the City of Mesa should have fewer regulations in order to be more business friendly.

City Attorney Debbie Spinner clarified that the development agreement would require Council approval and would include all items typically listed as conditions in the ordinance.

Additional discussion ensued relative to the fact that a potential buyer is required to present a site plan in order to purchase the property; that the Council as elected officials could be placed in the position of considering a plan that would maximize the financial return to the City, but a plan that could be less desirable for the neighborhood; that the concerns being expressed appear to be premature; that adding stipulations could make the property less attractive to a potential buyer; that a potential buyer would be required to invest a significant sum of money to develop a plan in order to purchase the property from the City; and that requiring a conceptual plan could be a means of achieving parity.

Vice Mayor Kavanaugh stated the opinion that bringing the property into conformance with the General Plan would enable a potential buyer to understand the approved uses, which he considered to be a business-friendly approach on the part of the City. He noted that in the event that a buyer did not come forward for ten or twenty years, the desired stipulations could be significantly different in the future.

Councilmember Walters expressed the opinion that Mr. McNichols is a quality developer. She added that the City would not approve any development that would degrade his investment or his commitment to the community.

It was moved by Councilmember Walters, seconded by Vice Mayor Kavanaugh, that Ordinance No. 4164 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- e. **Z04-04 (District 5)** 4750 East Main Street. Located north of Main Street and east of Greenfield Road. (7.03± ac.). Rezone from C-2 to C-3. This request is to allow storage of pre-manufactured home inventory product for Cal-Am Homes. Norton S. Karno, owner; Cory Sukert, Cal-Am Properties, applicant - Ordinance No. 4165.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan, landscape plan and elevations submitted (without guarantee of lot coverage).
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. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

Councilmember Whalen declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

It was moved by Councilmember Walters, seconded by Councilmember Jones, that Ordinance No. 4165 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- \*f. **Z04-06 (District 6)** Southeast corner of Ellsworth Road and Portobello Avenue. Located south of Guadalupe Road and east of Ellsworth Road (4.18± ac.). Rezone from R-4 PAD-DMP to O-S PAD-DMP. This request is for the development of office buildings. Marvin Jacobs, owner; Marshall Reynolds – Rencor Development, applicant - Ordinance No. 4160.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

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).
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 Subdivision Technical Review Committee.
6. Compliance with all requirements of the Design Review Board.
7. 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).
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- \*g. **Z04-07 (District 6)** 5524 East Baseline Road. Located east of Higley Road and north of Baseline Road (2.34± ac.). Site Plan Modification. This request is for the expansion of an existing office building. Lynn Urry, owner; Greg Hitchens, applicant - Ordinance No. 4161.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan (without guarantee of lot yield, building count, lot coverage) except as noted below.
2. Review and approval by the Planning and Zoning Board, Design Review Board and City Council of future development plans.
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. All street improvements and landscaping to be installed in the first phase of construction.
6. Compliance with all requirements of the Design Review Board.
7. Full compliance with all current Code requirements, unless modified through appropriate review and approval of the variance outlined in the staff report.
8. Retention basins to be 6:1 slopes maximum when adjacent to public rights-of-way or pedestrian walkways.

- h. **Z04-09 (District 6)** The 7500 block of East Hampton Avenue (north side). Located south of Southern Avenue and west of Sossaman Road (4.1± ac.). Rezone from AG-DMP (conceptual M-1) to M-1-DMP. This request is for the development of an auto repair building. Superstition Springs Investors Limited Partnership (Neal Kurn, President), owner; Brian Johns, Associated Architects, applicant - Ordinance No. 4166.

P&Z Recommendation: Approval with conditions. (Vote: 6-0, Saemisch abstaining)

1. Compliance with the basic development as described in the project narrative and as shown on the site plan and elevations submitted, (without guarantee of lot coverage).
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 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. Ensure that pedestrian circulation layout includes directness, safety, and continuity of routes throughout the site and from the street to all building entrances.
6. Compliance with all requirements of the Subdivision Regulations.
7. Compliance with all requirements of the Design Review Board.

Councilmember Whalen declared a potential conflict of interest and refrained from discussion/participation in this agenda item.

It was moved by Councilmember Walters, seconded by Councilmember Jones, that Ordinance No. 4166 be adopted.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

10. Items from citizens present.

There were no items from citizens present.

11. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:15 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 1<sup>st</sup> day of March 2004. 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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Attachments 1 and 2