



## COUNCIL MINUTES

May 21, 2007

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on May 21, 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  
Michael Claspell

(Councilmember Whalen participated in the entire meeting through the use of telephonic equipment.)

Invocation by Pastor Paul Covert, Central Christian Church of the East Valley.

Pledge of Allegiance was led by Mayor Hawker.

Mayor's Welcome.

### 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 Vice Mayor Walters, that the consent agenda be approved.

Carried unanimously.

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

Minutes from the March 22 and May 7 and 10, 2007 Council meetings.

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

\*3a. Deleted.

\*3b. Deleted.

4. Conduct a public hearing and take action on an amendment to the land use map for the following Minor General Plan Amendment:

4a. Public Hearing on Minor General Plan Amendment **GPMInor07-04 (District 6) (Related to Item 4b)**.

Mayor Hawker announced that this is the time and place for a public hearing regarding Minor General Plan Amendment **GPMInor07-04**.

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

4b. Take action on the following resolution:

**GPMInor07-04 (District 6)** The 1300 to 1500 block of South Sossaman Road (west side). Located south of Southern Avenue and west of Sossaman Road (19.98± ac.). Minor General Plan Amendment to change the General Plan Land Use Map from Business Park (BP) to Community Commercial (CC). John D. Kothe, Vice President of T. Wall Properties Arizona L.L.C. manager of Superstition Springs Commerce Park, LLC, owner; Steven Ybarra, applicant – Resolution No. 8973. **COMPANION CASE Z07-30. (See item 15j) (Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)**

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

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that Resolution No. 8973 be adopted.

Carried unanimously.

5. Conduct a public hearing and take action on an amendment to the land use map for the following Minor General Plan Amendment:

5a. Public Hearing on Minor General Plan Amendment **GPMInor07-05 (District 6) (Related to Item 5b)**.

Mayor Hawker announced that this is the time and place for a public hearing regarding Minor General Plan Amendment **GPMInor07-05**.

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

5b. Take action on the following resolution:

**GPMInor07-05 (District 6)** The 1200 block of South Sossaman Road (west side). Located southwest of Southern Avenue and Sossaman Road (5± ac.). Minor General Plan Amendment to change the General Plan Land Use Map from Business Park (BP) to Neighborhood Commercial (NC). Michael A. DeBell, Executive Vice President of Superstition Springs Investors LP, owner; Shelly McTee, applicant – Resolution No. 8974. **COMPANION CASE Z07-34. (See item 15n) (Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)**

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

It was moved by Councilmember Rawles, seconded by Vice Mayor Walters, that Resolution No. 8974 be adopted.

Carried unanimously.

6. Conduct a public hearing and take action on the annual assessments for the Mesa Town Center Improvement District No. 228.

6a. Public hearing on the proposed annual assessments for the Mesa Town Center Improvement District No. 228. **(Related to Item 6b)**

Mayor Hawker and Councilmember Whalen declared potential conflicts of interest and said they would refrain from discussion/consideration of items 6a and 6b. Mayor Hawker yielded the gavel to Vice Mayor Walters for action on this agenda item.

Vice Mayor Walters announced that this is the time and place for a public hearing regarding the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

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

6b. Take action on the following resolution:

Approving the annual assessments for the Mesa Town Center Improvement District No. 228. The proposed annual assessments for FY 2007/2008 do not include any rate increases. This District was established to provide enhanced municipal services to the Mesa Town Center – Resolution No. 8975.

It was moved by Councilmember Jones, seconded by Councilmember Somers, that Resolution No. 8975 be adopted.

Upon tabulation of votes, it showed:

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

Vice Mayor Walters declared the motion carried unanimously by those voting and Resolution No. 8975 adopted.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

7. Conduct a public hearing concerning the recommended changes to the development impact fees. (Related to Items 11a and 11b)

Mayor Hawker announced that this is the time and place for a public hearing regarding the recommended changes to the development impact fees.

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

8. Take action on the following liquor license applications:

\*8a. Fresh & Easy Neighborhood Market

New Beer & Wine Store License for Fresh & Easy Neighborhood Market, 5943 E. Brown Road, Fresh & Easy Neighborhood Market, Inc. – Applicant, Randy D. Nations – Agent. Brown Recker CVS LLC previously held a Liquor Store License, which they will retain. **(District 5)**

\*8b. Super Dollar Discount

New Beer & Wine Store License for Super Dollar Discount, 1340 E. Broadway Road, Suite #1, Super Dollar Discount LLC – Applicant, Khalid Said Mahboob – Agent. This is an existing business with no previous liquor license at this location. **(District 4)**

\*8c. Neighbors Garden Café, Gift & Floral Shop

New Restaurant License for Neighbors Garden Café, Gift & Floral Shop, 2740 S. Alma School Road, Suite #13, The Natick Group Inc. – Applicant, Shaun Cory Gidney – Agent. The previous Restaurant License at this location, issued to Neighbors Garden Cafe, Inc., will revert back to the State. **(District 3)**

\*8d. Restaurante Real

New Restaurant License for Restaurante Real, 909 E. Main Street, Cuauhtemoc Armenta Bojorquez – Individual. The Beer & Wine Store License currently held at this location by Cuauhtemoc Armenta Bojorquez will revert back to the State. **(District 4)**

\*8e. Wingstop

New Restaurant License for Wingstop, 937 N. Dobson Road, Suite B3, Los Amigos Food Service I LLC – Applicant, Jose Puchi Arriola – Agent. This is new construction with no previous liquor license at this location. **(District 1)**

9. Take action on the following contracts:

\*9a. Hardware and Software Upgrade to the Aspect 200R Automated Call Distribution System for the Information Technology Department. **(Single Bid)**

The Procurement Services Department recommends awarding the Mesa contract to Black Box Network Services at \$29,176.77, including sales tax.

\*9b. Radio Frequency Identification (RFID) Project Hardware, Software and Accessories for the Library. (State Grants In Aid [SGIA] Funding)

The Procurement Services Department recommends authorizing purchase from Maricopa County contract with 3M™ Library Systems at \$217,891.87, including applicable use tax.

\*9c. Three (3) Light Duty Vehicles for the Utilities and Transportation Departments. (Two Additions to the Fleet and one Replacement)

The Procurement Services Department recommends awarding Mesa contracts to Bill Heard Chevrolet at \$38,572.32, and Avondale Dodge at \$61,165.64, including applicable sales tax, for a total award of \$99,737.96.

\*9d. Three-year Supply Contract for Liquid Chlorine for Warehouse Inventory.

The Procurement Services Department recommends awarding the Mesa contract to the lowest responsive bidder, Hill Brothers Chemical Company, at \$33,781.25 annually, based on estimated requirements.

\*9e. Tire Rubber Modified Surface Sealant (TRMSS) as requested by the Transportation Division, Field Operations. (City of Glendale Contract # 05-09)

The Procurement Services Department recommends authorizing purchase from the City of Glendale contract with Musgrove Enterprises LLC (dba) SealMaster AZ for annual purchases estimated at \$335,650.05, including contingencies and applicable sales tax.

\*9f. Two-year Supply Contract for Streetlight and Traffic Signal Poles, Mast Arms and Anchor Bolts for Warehouse Inventory.

The Procurement Services Department recommends awarding contracts to the lowest responsive bidders, Valmont at \$26,955.46 and Union Metal Corp. (UMC) at \$251,600.45.

9g. Police Technical Services Building, City of Mesa Project No. 01-258-001.

This project will construct a new 48,577 square foot, multi-story Police Technical Services Building that will house the Mesa Crime Lab and identification facilities. The new facility will be located on the existing Justice Complex site, between Morris Street and Robson Street and between 1<sup>st</sup> Street and 2<sup>nd</sup> Street, in the parking lot south of the existing Court Building.

Recommend award of the construction phase service contract to D.L. Withers, Inc., with the Guaranteed Maximum Price of \$16,779,104.00 plus an additional \$1,677,910.40 (10% allowance for change orders) for a total award of \$18,457,014.40. Funding is available from existing Public Safety Bonds and Quality of Life Sales Tax.

Mayor Hawker declared a potential conflict of interest and said he would refrain from discussion/consideration of this agenda item. He yielded the gavel to Vice Mayor Walters for action on this agenda item.

It was moved by Councilmember Somers, seconded by Councilmember Jones, 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.

Vice Mayor Walters yielded the gavel back to Mayor Hawker.

10. Take action on the following recommendation from the Community & Neighborhood Services Committee:

\*10a. Modifying the alley abandonment process. **(Related to Item 11c)**

Committee Recommendation: Approval of Alternative 2. (Vote 3-0)

11. Introduction of the following ordinances and setting June 4, 2007 as the date of the public hearing on these ordinances:

11a. Amending Title 5, Chapter 17 of the Mesa City Code relating to development impact fees to adopt new impact fees and to eliminate impact fees for Cultural Facilities.

Councilmember Rawles noted that State law requires that in order to impose an impact fee, it must provide a necessary government service. He stated that no matter how desirable Cultural Facilities may be, in his opinion, they do not constitute a necessary government service.

It was moved by Councilmember Rawles, that the above-referenced ordinance be introduced and that June 4, 2007 be established as the date of the public hearing.

Mayor Hawker declared that the motion died for lack of a second.

- 11b. Amending Title 5, Chapter 17 of the Mesa City Code relating to development impact fees to adopt new impact fees.

It was moved by Vice Mayor Walters, seconded by Councilmember Jones, that the above-referenced ordinance be introduced and that June 4, 2007 be established as the date of the public hearing.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried by majority vote.

- \*11c. Amending Title 9, Chapter 10 of the Mesa City Code eliminating the fee for disposition of residential alley roadways as recommended by the Community & Neighborhood Services and Audit & Finance Committees. **(Related to Item 10a)**

Community & Neighborhood Services Recommendation: Approval. Vote: 3-0

Audit & Finance Recommendation: Approval. Vote 3-0

- 11d. **Z07-35 (District 1)** The 2000 through 2600 blocks of West 8<sup>th</sup> Street – north side, north to the 202 Freeway and City of Mesa Reclamation Plant (125 +/- acres). Establish a Development Master Plan with portions of the site requested to be: Rezoned from PF to C-3; Rezoned from C-3 PAD to C-3; Rezoned with a Bonus Intensity Zone overlay; and a Council Use Permit for residential uses within the C-3 zoning district. This request is to establish the base zoning districts and land uses for the Waveyard Development Master Plan, a future mixed-use development with entertainment, retail, offices and residential land uses. Owners: City of Mesa, Christopher J. Brady, City Manager; Maricopa County, Fulton Brock, Chairman, Maricopa County Board of Supervisors; and Larry Miller Automotive Group, Ken Ellergard. Applicant, Ralph Pew.

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

Vice Mayor Walters declared a potential conflict of interest and said she would refrain from discussion/consideration of this agenda item.

James McGuire, 903 N. Nina Drive, expressed support for the proposed Waveyard development. He stated that the project would be a valuable asset for the City of Mesa and encouraged the Council to approve this item.

It was moved by Councilmember Jones, seconded by Councilmember Rawles, that the above-referenced ordinance be introduced and that June 4, 2007 be established as the date of the public hearing.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

- \*11e. **Z07-36 (District 6)** The 10100-10300 blocks of East Southern Avenue (south side, south to Hampton Avenue) and the 1300 block of South Crismon Road (east side, east to the South Cheshire alignment). South and east of Crismon Road and Southern Avenue ( $\pm 1$  acre of the 46.9-acre hospital parcel). Site Plan Modification and Modification to the BIZ Overlay. This request will modify the existing hospital site to add a freestanding daycare facility. Joey Abney, IASIS Healthcare, owner; Ian C. Sinnett, Perkins & Will, applicant.

PHO Recommendation: Approval with conditions.

- \*11f. **Z07-37 (District 5)** 6659 East University Drive. South and west of 67<sup>th</sup> Street and University Drive. (7.0 $\pm$  ac.). Rezone from Maricopa County Rural 43 to City of Mesa R1-43. For the establishment of City of Mesa zoning on recently annexed property. Presbytery of Grand Canyon Corp., represented by Bill Duff, owner; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- \*11g. Amending the Mesa City Code regarding the following traffic modification:

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

On the east side of Terripin from McKellips Road to June Street and on the west side of Terripin from McKellips Road to a point 91 feet south of McKellips Road (south of McKellips Road and east of Power Road) **(District 5)**

12. Take action on the following resolutions:

- \*12a. Approving and authorizing the City Manager to execute an Intergovernmental Agreement (IGA) between the Flood Control District of Maricopa County and the City of Mesa for the pre-design, design, rights-of-way acquisition and utility relocations for the Siphon Draw Drainage improvements. Mesa's share of the IGA costs is estimated at \$1,250,000 and will be funded with approved Storm Sewer Bonds – Resolution No. 8971.

- 12b. Granting the sale of City-owned property in the 225 block of West Vine Avenue – Resolution No. 8976.

This land is considered excess City property and is no longer required. The sales price is \$1,300,000.

Jack Hannon, 736 S. Macdonald Street, President of the Nuestro Neighborhood Association, addressed the Council regarding this agenda item. He posed the following questions: 1.) What happened to the revitalization program for the Nuestro neighborhood; 2.) What happened to the election for the Nuestro Neighborhood Association, which was planned by City staff last April; and 3.) How would the sale of this property impact the quality of life of the neighbors.

Mayor Hawker responded that the property is currently zoned R-2 and M-1 and said that the purchaser could request that the land be rezoned.

City Attorney Debbie Spinner cautioned that the only issue before the Council is to grant the sale of City-owned property and not a broader discussion relative to the revitalization program for the Nuestro neighborhood.

Neighborhood Services Department Director Kari Kent clarified that it was her understanding that the Nuestro revitalization program ended approximately a year ago and noted that she was unaware of any plans for a neighborhood election. Ms. Kent added that the Nuestro neighborhood was not selected as an Opportunity Zone, but said that neighborhood revitalization was a similar type of program.

Mr. Hannon further advised that under the direction of City staff, residents performed various revitalization activities (i.e., land use development, cleanup) and said that such committees were formed and active for more than a year. He explained that with regard to this particular property, the residents discussed possible uses such as residential development, a community center, or neighborhood businesses. Mr. Hannon added that the idea of an election was suggested by City staff and explained that the residents agreed with the suggestion in an effort to expedite the revitalization program.

Mayor Hawker expressed support for the sale of the property at fair market value. He suggested that it might be appropriate for staff to send letters to the Nuestro neighborhood residents to address the fact that the City is not pursuing an election and that the revitalization program has been completed.

Councilmember Jones assured Mr. Hannon that there would be ample opportunity for the neighbors to provide input to the Council if the purchaser wishes to change the existing zoning on the property.

Vice Mayor Walters said that she recollected previous discussions regarding whether some of the property in question could be donated for other neighborhood uses, but noted that unfortunately, the City's budget has not allowed that to occur. She stated the opinion that the sale of the property should not be considered as the end of the revitalization process and urged the neighbors to continue their efforts in this regard.

Councilmember Whalen requested that staff provide Mr. Hannon the name of the purchaser so that as President of the Nuestro Neighborhood Association, he can meet with that individual to discuss the projected uses for the property.

It was moved by Councilmember Rawles, seconded by Councilmember Jones, that Resolution No. 8976 be adopted.

Carried unanimously.

- \*12c. Approving and authorizing the City Manager to execute an agreement between the City of Mesa and the Arizona Criminal Justice Commission for grant funds in the amount of \$53,220 to provide training and DNA analysis equipment for the Forensic Services Section of the Police Department – Resolution No. 8972.
- 12d. Approving and authorizing the City Manager to execute a development agreement between NKS Group III, LLC and the City of Mesa for the development of a regional shopping and employment center on the north side of Elliot Road between the Loop 202 and Hawes Road – Resolution No. 8977. **(Related to Item 15m)**

Mayor Hawker stated that this item was removed from the consent agenda at the request of Councilmember Somers.

Councilmember Somers offered a series of comments relative to the proposed development, which would be located in his district. He explained that as part of the conceptual land use plan, a Development Agreement was drafted which contains specific requirements for the development of the property. Councilmember Somers highlighted various elements of the Agreement and in particular, the issue of a hotel that is proposed, but not approved, to be located along the north property line. He explained that although the location of the hotel has raised concern among the adjacent neighbors, because it is a conceptual land use plan, the developer would be required to come back before the Council to request zoning for such a development as well as a waiver of height. He added that he would prefer that the location of the hotel be moved to another location on the site plan.

Councilmember Somers further spoke regarding the fact that the Development Agreement indicates that the property owner has committed to a development “of the highest quality possible similar, or better than Dana Park;” that it eliminates a variety of business uses at the site (i.e., muffler shops, transmission shops, auto repair shops); and also that it addresses the issue of public open space.

It was moved by Vice Mayor Walters, seconded by Councilmember Somers, that Resolution No. 8977 be adopted.

Councilmember Rawles commented that he first became aware of the Development Agreement last Friday when he received his Council packet. He stated that in his opinion, that was “a little late” to learn that one Councilmember was “driving a Development Agreement” and would have preferred to have been made aware of the situation in a timelier manner.

Councilmember Somers responded that he “did not drive” the drafting of the Development Agreement.

In response to a question by Mayor Hawker, Ms. Spinner clarified that because the Council is approving the Development Agreement, she highlighted the following typographical errors that were found and corrected: 1.) Section 3.6.2.5: the words “such as” are deleted; and 2.) Section 3.6.3.3: the comma after the word “uses” is deleted and replaced with a period.

Mayor Hawker called for the vote.

Carried unanimously.

- \*13. Adopt a Notice of Intention to increase rates or rate components, fees and/or service charges for irrigation water, natural gas, solid waste, wastewater and water and establishing June 25, 2007 as the date for the public hearing.
14. Discuss and take action on the adoption of a Notice of Intent to enter into a retail development tax incentive agreement with Waveyard Development, LLC for the development of a +/-125-acre water entertainment, resort, office, commercial, retail and residential development generally located in the 2000 through 2600 blocks of West 8th Street, between 8th Street on the south and the 202 Freeway and City of Mesa Reclamation Plant on the north. (District 1)

Vice Mayor Walters declared a potential conflict of interest and said she would refrain from discussion/consideration of this agenda item.

Earnie Johnson, 1414 N. Hibbert, expressed support for the Waveyard development and urged Council approval of this item.

Tom Schuelke, 7604 E. Wolf Canyon, stated the opinion that the above-referenced property is worth far more than the \$30 million that has been offered by the Waveyard developers. He also questioned why the City of Mesa has negotiated to accept as partial payment for the land future tax revenues to which it is already entitled.

In response to a question from Mayor Hawker, Ms. Spinner reported that A.R.S. 9-500.11 outlines the process that the Council must follow if they intend to enter into an economic tax development agreement. She explained that the statute specifically authorizes the City to enter into such an agreement so long as it follows the process. Ms. Spinner advised that the first step in the process is for the Council to consider a Notice of Intent, which must be adopted at least 14 days before the Council considers the Development Agreement (currently scheduled for the June 4, 2007 Regular Council meeting.).

Ms. Spinner commented that the statute also requires that the Council, before entering into the Development Agreement, must make two specific findings of fact (requiring a two-thirds vote) as follows: 1.) That the proposed tax incentive is anticipated to raise more revenue than the amount of the incentive within the duration of the agreement; and 2.) That in the absence of a tax incentive, the retail business facility or similar retail business facility would not locate in the City in the same time, place or manner. (Note: Council would make that determination at the June 4<sup>th</sup> meeting.)

Ms. Spinner further advised that the statute requires that an independent economic analysis be performed to support the finding that the revenue will exceed the expected cost of the Development Agreement. She added that every two years, a status report must be brought back to the Council at a public meeting in order to discuss the revenue generated by the project and the expenses of the tax incentive provided.

It was moved by Councilmember Rawles, seconded by Councilmember Griswold, that the Notice of Intent to enter into a retail development tax incentive agreement with Waveyard Development, LLC, be adopted.

Frank Alger, 1009 North April, expressed support for this item and commented that the Waveyard development is a vital project for the City of Mesa.

Councilmember Griswold voiced support for the project and stated that the developers will pay the City of Mesa \$10 million upon the close of escrow and an additional \$2 million annually for ten years.

Mayor Hawker called for the vote.

Upon tabulation of votes, it showed:

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

Mayor Hawker declared the motion carried unanimously by those voting.

15. 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.

- \*15a. Amending various sections of the Mesa City Code regarding the following traffic modifications – **Deleted**.
- \*15b. Amending Titles 3 and 10 of the Mesa City Code to allow a private contractor to perform parking enforcement of civil parking violations – Ordinance No. 4693.
- \*15c. **A06-18 (District 6)** Annexing land located at the northeast corner of Broadway Road and Hawes Road (8.69 ± ac). Initiated by David Henry, representing the property owner – Ordinance No. 4694.
- \*15d. **A06-33 (District 5)** Annexing land located on Sossaman Road north of McDowell Road (1.16 ± ac). Initiated by the property owner, Julie Preder – Ordinance No. 4695.
- \*15e. **Z07-10 (District 3) – Deleted**.
- \*15f. **Z07-11 (District 3) – Deleted**.
- \*15g. **Z07-15 (District 6)** 8743 East Pecos Road. Located west of Ellsworth Road on the south side of Pecos Road (10.5± ac.). Rezone from AG to M-1 PAD and O-S and Site Plan Review. This request will allow the development of a new office/warehouse development. Allen Marsh, Pecos Gateway, LLC, owner; Michael P. Monroe, Archicon, L.C., applicant – Ordinance No. 4696. (**Held two neighborhood meetings, notified property owners, homeowners' associations and registered neighborhoods.**)

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde, Salas absent)

- 15h. **Z07-27 (District 5)** The 3800 block of North Higley Road (east side). Located north of Thomas Road and east of Higley Road (9.84± ac.). Rezone from R1-90 (conceptual M-1) to M-1 and Site Plan Review. This request will allow the development of an industrial subdivision. Inez M. Boyle, Boyle Family Investments, LLC, owner; Jeff Welker, applicant – Ordinance No. 4699. ***(Held two neighborhood meetings, notified property owners, homeowners' associations and registered neighborhoods.)***

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde and Salas absent)

Mark Miku, 3802 North 54<sup>th</sup> Street, stated that he is currently opposed to this case because he was not informed of the neighborhood meetings. He requested that the Council delay action on this matter until such time as he obtains additional information regarding the case. Mr. Miku also expressed various concerns regarding the roadways in and out of the proposed industrial subdivision.

Mayor Hawker requested that staff furnish Mr. Miku a copy of the staff report in order to provide him with the requested information.

Jeff Welker, 1755 S. Val Vista, the applicant, apologized that Mr. Miku did not receive notices for the public meetings which, in fact, were mailed to the surrounding residents. He stated that he would be happy to supply Mr. Miku with any information he has regarding the project.

Councilmember Griswold commented that it was his understanding that all of the issues relative to this case were resolved.

It was moved by Councilmember Rawles, seconded by Councilmember Griswold, that Ordinance No. 4699 be adopted.

Vice Mayor Walters stated that it appears as though the applicant has done a tremendous amount of work on the case and noted that postponing Council action on this item would be costly to many individuals. She suggested that Mr. Welker meet with Mr. Miku to address any questions or concerns he may have regarding the case.

Mayor Hawker called for the vote.

Carried unanimously.

- \*15i. **Z07-28 (District 3) Deleted.**

- 15j. **Z07-30 (District 6)** The 1300 to 1500 block of South Sossaman Road (west side). Located south of Southern Avenue and west of Sossaman Road (34.5± ac.). Site Plan Modification, Modification of the Superstition Springs Development Master Plan, and rezone the eastern portion of the site from M-1-PAD-DMP to C-2-PAD-DMP. This request will allow for the development of a Costco, an industrial park and a future retail development. John D. Kothe, Vice President of T. Wall Properties Arizona L.L.C.

manager of Superstition Springs Commerce Park, LLC, owner; Steven Ybarra, applicant – Ordinance No. 4700. **COMPANION CASE GPMInor07-04. (See Item 4a and 4b) (Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)**

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde and Salas absent)

It was moved by Councilmember Somers, seconded by Vice Mayor Walters, that Ordinance No. 4700 be adopted.

Carried unanimously.

- \*15k. **Z07-31 (District 4)** 337 South Nina Drive (east side). Located east of Alma School Road and north of Broadway Road (0.22± ac.). Rezone from R-4 to M-1 and Site Plan Review. This request will bring the existing use into conformance with the Zoning Ordinance and with the General Plan. Edith Mosley, owner; Devin Tietjen, applicant – Ordinance No. 4697. **(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.)**

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde and Salas absent)

- \*15l. **Z07-32 (District 5)** 5747 East McKellips Road. Located west of Recker Road on the south side of McKellips Road (14± acres). Site Plan Review. This request will allow the development of a retail center. Western States Lodging, Gary K. Griffiths, Manager, owner; Dennis Price, applicant – Ordinance No. 4698. **(Held a neighborhood meeting, notified property owners and homeowners' associations.)**

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde and Salas absent)

- 15m. **Z07-33 (District 6)** The 8400 to 8800 block of East Elliot Road (north side) and the 3200 to 3600 block of South Hawes Road (east side). Located at the northeast corner of Elliot Road and Hawes Road (170± ac.). Establishment of a Development Master Plan (±170 ac.) for a Regional Shopping and Mixed-Use Employment Center. Rezone the northern portion (±85 ac.) of the site from AG to AG DMP (Conceptual C-2) and rezone the southern portion (±85 ac.) of the site from AG to C-2 DMP. This request will facilitate the development of a Regional Shopping and Mixed-Use Employment Center. Nelson K. Stewart, NKS Group III, LP, owner; W. Ralph Pew, Pew & Lake, PLC, applicant – Ordinance No. 4701. **(Held a neighborhood meeting, notified property owners, homeowners' associations and registered neighborhoods.) (Related to Item 12d)**

P&Z Recommendation: Approval with conditions. (Vote: 5-0 with Boardmembers Langkilde and Salas absent)

Ralph Pew, 1930 E. Brown Road, the applicant, provided a brief overview of this agenda item. His comments included, but were not limited to, the following: that the case is a unique approach in combining a large tract of land at an arterial and freeway interchange; that General

Plan designations include Mixed-Use Employment and Regional Commercial; that the Development Master Plan (DMP) incorporates those uses; that critical to the matter and included in the Development Agreement is the timing and development of the parcel so the balance of uses remains consistent at the site; and that the location of a hotel on the north end of the site, in his opinion, is appropriate as the structure would be buffered by transmission lines and a large setback from the adjacent neighborhood.

Mr. Pew further indicated that the issue before the Council this evening is a Development Master Plan and conceptual zoning of the northern half of the property. He stated that once a development plan comes forward with a formal site plan with the uses outlined in the DMP, he would come back to the Council to seek approval for the zoning case. Mr. Pew added that if there is a high-rise element to the hotel, office space or any other use, the case would be brought back to the Planning & Zoning Board and the Council to request a Bonus Intensity Zone overlay.

Mr. Pew also noted that with regard to concerns expressed by the neighbors relative to open space and the preservation of land, the developer would comply with all local, State and Federal environmental laws. He added that the developer does not intend to set aside any portion of land for conservation purposes.

Carolyn McReynolds, 3008 S. Joslyn, expressed concern that the proposed development would negatively impact the residents by creating traffic congestion, excessive noise and ongoing lighting and safety issues. She added that there is already an overabundance of retail and commercial businesses in the area.

Casey Stechnij, 3442 S. Hawes Road, urged the Council to delay action on this case in order to provide an opportunity for all of the stakeholders to become familiarized with the proposed development. He also questioned why the applicant requested conceptual zoning only on the northern half of the property and inquired what would prevent the developer from selling the southern portion of the property zoned C-2 and holding the northern portion for development.

Toni Destries, 9764 E. Meseto Avenue, expressed support for the upscale project and stated that such a development would bring needed sales tax revenue to the City of Mesa.

William Jessen, 9765 E. Meseto Avenue, concurred with the comments of the previous speaker. He added that many southeast Mesa residents would welcome the opportunity to spend their tax dollars at a high-end development in the community, which would include restaurants, shops, hotels and other upscale amenities.

Mr. Pew responded to a variety of comments expressed by the speakers and stated that the establishment of the DMP is merely the first step in the development process. He explained that there would be many opportunities for the residents to provide input with regard to such issues as zoning, design guidelines and other matters.

In response to a question from Councilmember Rawles, Mr. Pew clarified that it was his idea that a Development Agreement serve as a mechanism to "tie down" the development to the standards and quality that the developer intended to implement. He added that the drafting of the document was a collaborative effort between himself and the City Attorney's Office.

It was moved by Vice Mayor Walters, seconded by Councilmember Rawles, that Ordinance No. 4701 be adopted.

Vice Mayor Walters concurred with Mr. Pew regarding the fact that the establishment of the DMP is “not the end of the process.” She noted that the impact on the neighborhood would be most clearly felt at the northern portion of the parcel and commented that she would expect to see significant input from the residents concerning the proposed construction of a hotel at that location. Vice Mayor Walters also stated that she would anticipate that with a development of this caliber, the developer would address various measures to ensure water conservation and also incorporate certain “green” standards within the project.

Councilmember Somers commented that the neighbors have expressed concern that the developer has a reputation of taking land and either parceling it out or selling it. He inquired if that were the case, how the Development Agreement would impact the owner of either the entire parcel or just the southern half.

Responding to Councilmember Somers’ inquiry, City Attorney Debbie Spinner clarified that per Section 4.7 of the Development Agreement, the developer must develop consistent with the agreement. She explained that the document does allow the developer to sell the property in whole or in part, but also requires that the new owner comply with all of the terms and conditions of the Development Agreement.

Mr. Pew concurred with Ms. Spinner’s statement and added that the developer also must present a plan consistent with the DMP overall in order to implement this concept. He added that under Mesa’s Zoning Code, the DMP is a specific tool to be used in conjunction with conceptual zoning for future development of a specific plan.

Councilmember Somers stated that he is comfortable with this item moving forward as a result of the above-referenced assurances outlined by Ms. Spinner and Mr. Pew’s confirmation relative to the Development Agreement. He added that future zoning processes would occur to address the issue of the proposed hotel on the northern half of the property.

Mayor Hawker called for the vote.

Carried unanimously.

- 15n. **Z07-34 (District 6)** The 1200 block of South Sossaman Road (west side). Located southwest of Southern Avenue and Sossaman Road (5± ac.). Rezone from AG (Conceptual PEP) DMP to C-2 DMP, Site Plan Review and Modification of the Superstition Springs Development Master Plan. This request will allow the development of new retail buildings. Michael A. DeBell, Executive Vice President of Superstition Springs Investors LP, owner; Shelly McTee, Buchalter Nemer, applicants – Ordinance No. 4702. **COMPANION CASE GPMInor07-05. (See item 5a and 5b) (Held a neighborhood meeting, notified property owners, homeowners’ associations and registered neighborhoods.)**

P&Z Recommendation: Approval with conditions. (Vote 5-0 with Boardmembers Langkilde and Salas absent.)

It was moved by Councilmember Rawles, seconded by Councilmember Somers, that Ordinance No. 4702 be adopted.

Carried unanimously.

16. Take action on the following subdivision plat:

- \*16a. "EASTGATE MESA NORTH, A CONDOMINIUM" (**District 3**) 540 West Iron Avenue (north side) located north and west of Baseline Road and Country Club Drive. 17 M-1 commercial condominium units (3.64 ac) Eastgate Mesa, LLC, Cliff Cutler, managing member.

17. Items from citizens present.

Frank Alger, 1009 North April Street, updated the Council with regard to the Mesa Veterans Parade Association. He reported that the Association conducts monthly meetings the third Friday of every month at 1:00 p.m. at the Mesa City Plaza Building, Room 170. Mr. Alger also voiced disappointment relative to Councilmember Rawles' continual refusal to stand for the Pledge of Allegiance.

Mayor Hawker stated that a Councilmember is provided the opportunity to respond to comments made directly to him under this agenda item.

Councilmember Rawles commented that since the May 7<sup>th</sup> Regular Council meeting, 44 American soldiers have died in the Iraq war. He stated that he intended to read the names tonight of those individuals that were not disclosed when he read names at the May 7<sup>th</sup> meeting, but would not do so because of the late hour. Councilmember Rawles stated that he would continue to read the names of American soldiers who have died in Iraq whenever Mr. Alger or anyone else takes issue with his failure to stand for the Pledge. He added that it is important to bring back the focus on the men and women who are in harm's way for a cause that he believes is immoral and unjust.

Greg Devorce, 2512 South Jefferson Avenue, urged the Council to maintain the current level of transit service and Dial-A-Ride services.

Nate Caine, 1325 West Keats, reminded everyone that the Parks Board Special Meeting is rescheduled to May 22, 2007 at 5:00 p.m. at Kleinman Park, followed by a Neighborhood meeting at 6:00 p.m. at Powell Junior High School. He stated that the purpose of the meetings is to address preliminary options for relocating the Riverview ball fields.

18. Adjournment.

Without objection, the Regular Council Meeting adjourned at 7:25 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 21<sup>st</sup> of May 2007. 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

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