



## COUNCIL MINUTES

January 12, 2009

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on January 12, 2009 at 5:48 p.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Invocation by Vice Mayor Jones.

Pledge of Allegiance was led by Councilmember Higgins.

Mayor's Welcome.

Mayor Smith 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.

Mayor Smith announced that a citizen has requested that item 7h be removed from the consent agenda.

It was moved by Vice Mayor Jones, seconded by Councilmember Somers, that the consent agenda items, with the exception of item 7h, be approved.

Carried unanimously.

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

Minutes of the October 2, 23, and 30, November 6, and December 8, 2008 Council meetings.

3. Conduct a public hearing prior to the release of the petition for signatures for the following proposed annexations:

- 3a. **A08-07 (District 5)** Annexing land located south of University Drive and east of Higley Road (29.60 +/- ac.). Initiated by Craig Ahlstrom for the property owner, Dreamland Golf Ltd. Partnership.

Mayor Smith announced that this was the time and place for a public hearing regarding A08-07 (District 5), annexing land located south of University Drive and east of Higley Road.

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

- 3b. **A08-14 (District 5)** Annexing land located south of McDowell Road and east of Higley Road (0.08 +/- ac.). Initiated by Michael Gallego for the property owner, Ronald Barney.

Mayor Smith announced that this was the time and place for a public hearing regarding A08-14 (District 5), annexing land located south of McDowell Road and east of Higley Road.

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

- 3c. **A08-38 (District 6)** Annexing land located north of Southern Avenue and west of Ellsworth Road (1.11 +/- ac.). Initiated by Carlos Dominguez for the property owner, Masjid Abu Baker.

Mayor Smith announced that this was the time and place for a public hearing regarding A08-38 (District 6), annexing land located south of Southern Avenue and west of Ellsworth Road.

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

4. Take action on the following liquor license applications:

- \*4a. Dobson Ranch Woman's Club

This is a one day charitable event to be held on Saturday, February 21, 2009 from 7:00 p.m. to 10:00 p.m. at 2719 S. Reyes (**District 3**).

- \*4b. Hyatt Place Phoenix-Mesa

New Beer & Wine Bar License for Hyatt Place Phoenix-Mesa, 1422 W. Bass Pro Drive, Mesa Food & Beverage LLC – Candace Lee Greff, Agent. This is new construction with no previous liquor license at this location (**District 1**).

\*4c. Carniceria El Porton

New Beer & Wine Store License for Carniceria El Porton, 1316 W. University Drive, – Martin Roberto Reyes, Individual. The previous Beer & Wine Store License held at this location by Carniceria El Rodeo 2 will revert back to the State (**District 1**).

\*4d. El Bucanero

New Restaurant License for El Bucanero, 35 N. Country Club Drive, El Bucanero LLC – Julio Albert Guerrero, Agent. The previous Restaurant License held at this location by Centro Botanero will revert back to the State (**District 4**).

\*4e. Native New Yorker

New Restaurant License for Native New Yorker, 1559 S. Gilbert Road, Gilbert 60 Powers LLC – Amy S. Nations, Agent. The previous Restaurant License held at this location by Native New Yorker will revert back to the State (**District 2**).

5. Take action on the following contracts:

- \*5a. Purchase of one (1) Urban Tactical Robot for the Mesa Police Department. (Fully Grant Funded UASI Federal Homeland Security Program) (**Sole Source as required by Grant**).

The Business Services Department recommends accepting the sole source bid from Automatika/Foster-Miller, Inc. at \$69,132.10, including applicable use tax.

- \*5b. Purchase of one (1) Bomb Robot for the Mesa Police Department. (Fully Grant Funded UASI Federal Homeland Security Program) (**Sole Source as required by Grant**).

The Business Services Department recommends accepting the sole source bid from ICOR Technology, Inc. at \$65,498.40, including applicable use tax.

- \*5c. Purchase of two (2) Explosive Device Protection Suits for the Mesa Police Department. (Fully Grant Funded State Homeland Security Grant Program) (**Single Bid**).

The Business Services Department recommends awarding the purchase to the single bidder, Mar-Vel International, Inc. at \$49,449.50, including applicable use tax.

- \*5d. Purchase of additional DNA Analysis Equipment for the Police Department (Mesa Contract #2008195) (Fully Funded National Institute for Justice DNA Backlog IV Grant and State of Arizona Crime Lab Assessment Fund) (**Sole Source**).

The Business Services Department recommends accepting the sole source bid from Life Technologies Corporation, dba Applied Biosystems Group, at \$104,157.50, including applicable use tax.

- \*5e. Cancellation and re-award of the term contract for uniform garments for the Fire Department.

The Business Services Department recommends cancelling the award to Larada's Army Surplus and re-awarding the remainder of the contract (Group A only) to the second lowest, responsive and responsible bidder, Surf & Ski Enterprises, at \$119,835.93 annually, including applicable sales tax.

- \*5f. Term contract for replacement Fire Hydrant Water Meters for the Utilities Department, Water Division.

The Business Services Department recommends awarding the contract to the lowest responsive, responsible bidder, Badger Meter Inc. at \$45,302.40 annually, including applicable use tax.

- \*5g. One-year renewal of the term contract for bulk methanol for the Utilities Department, Water Division.

The Business Services Department recommends authorizing renewal of the contract with Western States Petroleum at \$310,000.00 annually, based on estimated requirements.

- \*5h. Term contract for replacement Automotive Deep Cycle Batteries for the Fleet Services Department.

The Business Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Copperstate Battery, Inc., at \$100,234.72 annually, including applicable sales tax.

- \*5i. Purchase of one (1) replacement Medium-Duty Truck with flatbed body and crane for the Utilities Department, Water Division.

The Business Services Department recommends awarding the contract to the lowest, responsive and responsible bidder, Altec Industries, at \$180,813.60, including applicable use tax.

- \*5j. Kingsborough Park ADA Modifications Playground Renovation, 2311 East Holmes Avenue, City of Mesa Project No. 06-004-001 (**District 2**).

This project includes installing new play equipment, fully ADA-accessible engineered wood fiber for the playground surfacing, new accessible ramps and walkways, trash receptacles, benches, drinking fountains, barbeque grills and picnic tables. The two existing ramadas will remain in place and will be reused. Parks, Recreation and Commercial Facilities (PRCF) Department staff will be doing landscape and irrigation adjustments and lighting improvements to accommodate the renovated park areas.

Recommend rejection of the September 22, 2008 award of \$262,660.20 to Concast Corporation and award to the current low bidder, R.K. Sanders, Inc., in the amount of \$180,412.00 plus an additional \$18,041.20 (10% allowance for change orders) for a total award of \$198,453.20. Funding is available in the approved FY 08/09 Community Development Capital Program – Community Development Block Grant (CDBG) Funds.

- \*5k. 69kV Rebuild Project, University Drive from Extension to Stapley Drive, City of Mesa Project No. 06-025-001 (**Districts 1, 2 and 4**).

This project includes the replacement of 54 wood poles with 41 concrete poles and 13 steel poles. The steel poles will act as “stopper” poles to minimize catastrophic failure during severe wind storms (micro-bursts). Also included in the work is the installation of 2.5 miles of new conductors (wires) to help improve the capacity of the electric system. All materials for this project are to be provided by the Electric Division.

Recommend award to the low bidder, Sturgeon Electric Company, Inc., in the amount of \$647,763.10 plus an additional \$64,776.31 (10% allowance for change orders) for a total award of \$712,539.41. Funding is available from the approved FY 08/09 Budget, Electric Bond Program.

6. Take action on the following resolutions:

- \*6a. Modifying fees and charges for the Arizona Museum of Natural History – Resolution No. 9429.
- \*6b. Approving and authorizing the City Manager to execute a Grant Agreement with the National Children’s Alliance to secure grant funds in the amount of \$10,000 to purchase computer equipment for the Police Department’s Computer Forensic Unit – Resolution No. 9430.
- \*6c. Approving an Agricultural Property Master Lease for key terms and parameters set and conditioned by the Council and authorizing the City Manager, or his designee, to provide annual updates/negotiating of the terms, rental rates and non-material additional provisions to these Master Lease terms for the City’s “water farms” and citrus groves – Resolution No. 9431.
- \*6d. Approving and authorizing the City Manager to execute an amendment to a Development Agreement between Pinnacle Holdings, LLC, and the City of Mesa for a change in the construction completion for the McLellan Road ½ street improvements that are being required by Mesa in conjunction with the Mountain Bridge residential development located at 8402 East McKellips Road (**District 5**) – Resolution No. 9432.
- \*6e. Extinguishing a portion of a Public Utilities Easement at 1106 South Signal Butte Road (**District 6**) – Resolution No. 9433.

This portion of the easement is no longer needed as the design of the property has changed and the developer has dedicated a new easement.

- \*6f. Approving the sale of excess City-owned property located at the southeast corner of Higley Road and Red Mountain Freeway Loop 202.

This parcel has been determined to be excess City-owned property.

**(Consent Agenda: To continue to the January 26, 2009 Council meeting.)**

- \*6g. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with Valley Metro Rail, Inc. for Mesa to provide real estate services to obtain options to lease property for additional commuter vehicle parking adjacent to the Sycamore Park-and-Ride – Resolution No. 9434.
- \*6h. Approving and authorizing the City Manager to execute a Letter of Understanding with the Arizona Department of Water Resources regarding appropriate regulatory accounting for non-potable water deliveries for turf irrigation purposes – Resolution No. 9435.
- \*6i. Approving and authorizing the City Manager to execute the White Mountain Apache Tribe Water Rights Quantification Agreement – Resolution No. 9436.

7. Introduction of the following ordinances and setting January 26, 2009, as the date of the public hearing on these ordinances:

- \*7a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

Speed Limits (30 mph): 10-4-6

Establishing a speed limit of 30 mph on Hampton Avenue from Cheshire to Signal Butte Road (south of Southern Avenue and west of Signal Butte Road) (**District 6**).

- \*7b. Amending Section 10-5-1 of the Mesa City Code relating to City-owned parking lots and garages to authorize the City Manager to determine if the event parking fee should be assessed for specific events and granting the City Council the ability to authorize the City Manager to enter into licenses, lease or other agreements that modify or waive daily and event parking fees.

- \*7c. **Z08-69 (District 6)** 8825, 8837 and 8911 E Sunland Avenue. Located north and west of Ellsworth Road and Southern Avenue (3.36± ac.). Rezone from Maricopa County R1-43 to City of Mesa R1-43 for the establishment of City of Mesa zoning on recently annexed property. Stephen and Susan Hagerman, James and Jean Winters, James and Cynthia McClafferty, owners; City of Mesa, applicant.

PHO Recommendation: Approval with conditions.

- \*7d. **Z08-72 (District 4)** 513 South Morris Street. Located south of Broadway Road and east of Country Club Drive. Rezone from R-4 to M-1. This request will allow the current business operation to be brought into conformance with the M-1 zoning district. Lance Willis, Orange Street Mechanical, LLC, owner; Tyler Wright, Pew & Lake, PLC, applicant. (***Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.***)

P&Z Recommendation: Approval with conditions (5-1-1 with Boardmembers Carter abstaining and Salas absent).

- \*7e. **Z08-73 (District 2)** The 1000 to 1100 blocks of North Stapley Drive (east side). Located south of Brown Road and east of Stapley Drive. (1.15± ac.). Rezone from R1-9

to O-S and Site Plan Review. This request will allow the development of an assisted living facility. Chad Rogers, owner; Dan Brock – Brock, Craig and Thacker Architects, applicant. ***(Held two neighborhood meetings, notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with conditions. (Vote: 6-0-1 with Boardmember Salas absent).

- \*7f. **Z08-74 (District 5)** 2041 North Recker Road. Located north of McKellips Road on the east side of Recker Road (1.43± ac.). Rezone from R1-9 to C-2 and Site Plan Review. This request will allow for the development of an auto service facility with a car wash. Angela N. Dotty, PFA Enterprises, LLC, owner; Richard Clutter, EMC2 Architects, applicant. ***(Notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with conditions (Vote: 6-0-1 with Boardmember Salas absent).

- \*7g. **Z08-75 (District 6)** 5358 East Baseline Road. Located east of Higley Road on the north side of Baseline Road. (3.47± ac.). Site Plan Modification. This request will allow the development of a skilled nursing facility in the C-1 district. Kelly Hanrahan, Trustee of The William Lee Hanrahan Trust, owner; Mark Hansen, Member of Sante Partners, LLC applicant. ***(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)***

P&Z Recommendation: Approval with conditions ((Vote: 6-0-1 with Boardmember Salas absent).

- 7h. Amending Title 5, Chapter 7, Section 3 of the Mesa City Code to implement a fee involving all pawnshop and secondhand dealer transaction reports filed within the Mesa Police Recovered Property Unit.

Trish Hart, 318 West Roosevelt, Phoenix, addressed the Council on behalf of the Arizona Pawn Association. She thanked the Council, City staff and the Police Department for listening to the concerns of their members. Ms. Hart advised that the Pawn Association supports the implementation of an electronic reporting system and the inclusion of second-hand dealers in the regulation; however, she expressed concern that the \$3.00 fee exceeds the amount necessary for cost recovery. She suggested that the increasing number of pawn transactions and the additional revenues generated by second-hand dealers would provide greater cost recovery, which should result in a lower transaction fee.

In response to a question from Councilmember Somers, City Attorney Debbie Spinner advised that introduction of the proposed ordinance does not establish the fee. She stated that a separate resolution, which is scheduled for presentation to the Council in two weeks, would include a staff recommendation for a transaction fee, which could be adjusted by the Council at that time.

Mayor Smith noted that the Council reviews all fees on an annual basis as part of the budget process, and he added that the Council has the power to adjust the fees during that process.

Discussion ensued relative to the fact that the Council has the responsibility to establish reasonable fees that facilitate cost recovery for the services provided.

Mr. Brady advised that staff's recommendation for a \$3.00 transaction fee does not represent full cost recovery. He said that staff would provide additional information on the fee structure, including an estimate of the additional revenues that would be generated by second hand dealers. Mr. Brady added that a \$3.00 fee would be consistent with the fee charged by other municipalities in the Valley.

Responding to a question from Councilmember Richins, Ms. Spinner advised that a nexus must exist between the fee and the service provided.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Jones, that the subject ordinance be introduced and that January 26, 2009 be established as the date for the public hearing.

Carried unanimously.

8. Discuss, receive public comment, and take action on the ordinances introduced at a prior Council meeting. Any citizen that 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. **A06-26 (District 5)** Annexing vacant land located south of Thomas Road and east of Hawes Road (11.07± ac.). Initiated by Reese Anderson, Pew & Lake, PLC, representing the property owner. Staff Recommendation: Approval. **(Continued from the December 8, 2008 Council meeting)**.

**(Consent Agenda: To continue to the January 26, 2009 Council meeting.)**

\*8b. **Z08-67 (District 5)** 6750 East Baywood Avenue. Located north of Broadway Road on the west side of Power Road (4.8± ac.). Site Plan Modification and Modification of BIZ Overlay. This request will allow an addition to an existing hospital. Banner Health Systems, owner; Deva Powell, HKS Inc., applicant – Ordinance No. 4902. **(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)**

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

\*8c. **Z08-68 (District 6)** The 7400 to 7500 blocks of East Southern Avenue (north side). Located west of Sossaman Road on the north side of Southern Avenue (11.57± ac). Rezone from C-2 DMP to C-2 PAD DMP and Site Plan Review. This request will allow for the development of a group commercial center. Kevin Page, Vice President, The Arizona Real Estate Fund II, LLC, owner; David Calcaterra, Deutsch Architecture Group, applicant – Ordinance No. 4903. **(Held a neighborhood meeting, notified property owners, homeowners associations and registered neighborhoods.)**

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

9. Take action on the following recommendation from the Audit and Finance Committee:

- \*9a. Accept the City's Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended June 30, 2008.

Committee Recommendation: Approval. (Vote: 3-0).

\*10. Assign delinquent accounts to collection services for the three-month period ending September 30, 2008, totaling \$991,362.

11. Discuss and take action on compensation issues:

\*11a. **Deleted.**

\*11b. **Deleted.**

- \*11c. Reduce the compensation of the City Manager, City Attorney, City Clerk and City Auditor by an amount equal to 2% of their bi-weekly base salary and authorize the Mayor to sign revised contracts for the City Manager and City Attorney reflecting this change.

12. Items from citizens present:

There were no items from citizens present.

Mayor Smith acknowledged the passing of Dennis Barney and extended condolences to the family on behalf of the City. He stated that Mr. Barney was an individual who gave generously to many community causes.

13. Adjournment.

Without objection, the meeting adjourned at 6:11 p.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, 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 12<sup>th</sup> day of January 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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