

# COUNCIL MINUTES

March 3, 1997

The City Council of the City of Mesa met in a Regular Council Meeting in the upper level of the Council Chambers, 57 East 1st Street, on March 3, 1997, at 5:52 p.m.

## COUNCIL PRESENT

Mayor Wayne Brown  
Pat Gilbert  
John Giles  
Dennis Kavanaugh  
Joan Payne  
Wayne Pomeroy  
Jim Stapley

## COUNCIL ABSENT

None  
  
POLICE OFFICER  
PRESENT  
  
Robert Nesbit

## OFFICERS PRESENT

C.K. Luster  
Neal Beets  
Barbara Jones

The invocation was given by Pastor Ed Petersen, First Lutheran Church.

The Pledge of Allegiance was led by Cory Nelson, Troop 358.

Mayor Brown welcomed Mayor James E. Carpenter from the City of Osakis, Minnesota to the meeting.

### 1. Approval of minutes of previous meetings as written.

It was moved by Councilmember Stapley, seconded by Councilmember Pomeroy, that the minutes of February 14, 18 and 21, 1997, be approved.

Carried unanimously.

### 2. Conduct a public hearing on proposed water and wastewater utility rates for the area previously known as Williams Air Force Base (see Item 6a for rate schedules).

Mayor Brown announced that this is the time and place for a public hearing regarding the proposed water and wastewater utility rates for the area previously known as Williams Air Force Base.

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

3. 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 in these minutes with an asterisk (\*) were approved with one Council action.

It was moved by Councilmember Stapley, seconded by Councilmember Pomeroy, that the consent agenda items be approved.

Carried unanimously.

4. Consider the following liquor license applications.

\*a. BRIAN J. MEI, AGENT

Person transfer beer and wine bar license for Nello's Pizza, 2950 South Alma School Road, #16-18. This transfer is from Dan Mei, Agent, Nello's, Inc. to Brian J. Mei, Agent, Nello's 2, Inc.

\*b. SUE ELIZABETH L'AFRICAIN, AGENT

New beer and wine store license for Trader Joe's, 2048 East Baseline Road. This is an existing business, no previous liquor licenses at this location.

\*c. DAVID NOEL CANDLAND, AGENT

New restaurant license for Mi Amigo's Mexican Grill, 6465 East Southern Avenue. This is a new business, no previous liquor licenses at this location.

\*d. ERNESTO A. RASCON, ETAL

New restaurant license for Restaurant Sinaloa, 45 West Broadway Road. The license previously held at this location by Cesar Corona, etal, Restaurant Sinaloa, will revert back to the State.

5. Consider the following contracts.

\*a. Landscape maintenance services at the City's parks & retention basins in the area designated as Zone 5 as requested by the Parks Maintenance Division.

The Purchasing Division recommends accepting the low bid by Bowen's Horticulture Service at \$126,786.00 based on estimated requirements.

\*b. Twelve utility bodies to be mounted on one-ton trucks as requested by various City departments.

The Purchasing Division recommends accepting the low bid by Utility Trailer Sales Company at \$27,896.00 plus 7.05% sales tax of \$1,966.66 for a total of \$29,862.66.

- \*c. Three computerized polygraph systems as requested by the Police Department.

The Purchasing Division recommends accepting the low bid meeting specification by Axciton Systems, Inc. at \$24,600.00 plus 5% use tax of \$1,230.00 for a total of \$25,830.00.

- \*d. Concrete Driveway Replacement at Fire Station No. 5 and Sidewalk Installation.

This project will replace and install concrete for a driveway at Fire Station No. 5, replace and install a retaining wall, curb and gutter, and a sidewalk ramp at the 500 block of West Brown Road and 2600 block of West Broadway Road.

Recommend award to low bidder, Rummel Construction, Inc., in the amount of \$70,393.00.

- \*e. Municipal Building Remodel.

This project will do a minor remodel of various areas on the first floor of the Municipal Building. This will include new carpet, paint, some wall demolition, new walls, patch and repair ceiling, relocation of light fixtures, new electrical outlets, and other miscellaneous items. It does not include mechanical or plumbing improvements.

Recommend award to second low bidder, Builders Guild, in the amount of \$272,228.00.

- f. Annual supply contract for inorganic nitrate solution to be used in the City wastewater collection system as requested by the Utility Operations Division.

Recommend accepting the low bid by Vulcan Chemical Technologies, Inc. (VCTI) at \$54,201.00 plus 5% use tax of \$2,710.05 for a total of \$56,911.05.

Vince Marano, Sales Representative for U.S. Filter/Davis Process, advised that staff has acknowledged, both in writing and verbally, that the City will utilize U.S. Filter's technology in the City sewers. Mr. Marano said that the bid specifications require that use of the nitrate be covered as part of the contract. Mr. Marano added that a license has not been purchased by Vulcan Chemical Technologies, Inc. (VCTI) or the City. Mr. Marano emphasized that the technology to be utilized is a patented process and requested that either a license be obtained from U.S. Filter or Council consider U.S. Filter's bid as the low responsive bidder.

City Attorney Neal Beets explained that the contract was put out to bid and several bids were received. Mr. Beets noted that provisions were integrated into the bidding documents informing potential bidders of their obligation to provide a product that is free of claims or liens of any kind, and the bidders' responsibility to protect, defend, and hold the City harmless should claims arise as a result of the contract. Mr. Beets stated the opinion that the indemnification and defense language contained in the contract agreement is sufficient to protect the City of Mesa.

Dave Burrow, representing VCTI, emphasized that his company is the low bidder and asked that the City award VCTI the contract. Mr. Burrow emphasized that VCTI has agreed to indemnify the City.

Councilmember Kavanaugh indicated opposition to awarding the contract to VCTI at this time. Councilmember Kavanaugh stated the opinion that the City should defer the award of the contract pending resolution of the licensing issue and added that despite the indemnification clause, the award of a contract may result in litigation.

Mayor Brown expressed the opinion that a lawsuit may occur whether or not the contract is awarded to VCTI.

It was moved by Councilmember Stapley, seconded by Vice Mayor Gilbert, that the recommendations of staff be approved.

Vice Mayor Gilbert stated the opinion that in order to avoid possible litigation, the City Attorney and Purchasing Department staff diligently review the process of awarding contracts.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Pomeroy-Stapley  
NAYS - Kavanaugh-Payne  
ABSENT - None

Mayor Brown declared the motion carried by majority vote.

6. Introduction of the following ordinances and setting March 17, 1997, as the date for the public hearing on these ordinances.

(Note: City Council introduction of ordinances does not necessarily reflect City Council approval of the ordinances. Introduction of ordinances sets in motion the public posting and advertising process for ordinances so that the City Council can hear from concerned citizens at the public hearing.)

- \*a. Establishing a rate schedule for water utility services for the area previously known as Williams Air Force Base as recommended by the Utility Committee.
- \*b. Establishing a rate schedule for wastewater utility services for the area previously known as Williams Air Force Base as recommended by the Utility Committee.
- \*c. Amending Sections 4-4-3, 4-4-31 and 4-4-34 of the Sign Ordinance regarding sign maintenance and visual appearance.
- \*d. Amending Section 8-6-3 of the Public Nuisance Code regarding sign maintenance and visual appearance.
- \*e. **Z96-111** The 1900 block of North Stapley Drive (west side). Site Plan Modification (3.6 acres). This case involves the development of a Sonic drive-thru restaurant.
- \*f. **Z96-113** 2217 West Ella. Requesting a Council Use Permit. This case involves a proposed halfway house.

- \*g. **Z97-7** 2345 West 8th Street. Modification of an ordinance and Site Plan Review (19± acres). This case involves the development of approximately 320 apartments.
- \*h. **Z97-8** The southwest corner of Val Vista Drive and Southern Avenue. Site Plan Review (3± acres). This case involves the development of an Osco and a pad building.
- \*i. **Z97-9** The 700 block of North Center Street (west side). Rezone from R-4 to R-3-PAD (1± acres). This case involves the development of a 16-unit multiple-residence project.
- \*j. **Z97-10** North of the northwest corner of 40th Street and Brown Road. Rezone from AG to R1-15-PAD and R1-15 (8.6± acres). This case involves the development of a gated subdivision with 8 lots.
- \*k. **Z97-11** The southeast corner of Greenfield Road and Adobe Road. Rezone from AG to R1-15-PAD (18± acres). This case involves a single-residence subdivision with 31 lots.
- \*l. **Z97-12** South of the southeast corner of Greenfield Road and Adobe Road. Rezone from AG to R1-9 and R1-7 with a PAD overlay (50± acres). This case involves a single-residence subdivision with 148 lots.
- \*m. Prohibiting parking on the east side of Cherry Street from University Drive to a point fifty feet (50') north of University Drive and on the west side of Cherry Street from University Drive to a point one hundred forty-five feet (145') north of University Drive; prohibiting parking between 8 a.m. and 4 p.m. on school days on Winthrop Circle from Fountain Street to a point four hundred fifty feet (450') north of Fountain Street; and reducing the speed limit from 35 mph to 30 mph on Lehi Road from Center Street to Gilbert Road as recommended by the Traffic Safety Committee.

7. Consider the following resolutions.

- \*a. Granting an easement to Boulder Mountain Highlands for the installation of a sewer line Resolution No. 6996.  
  
Easement and sewer are needed to serve a new subdivision.
- \*b. Vacating a portion of a public roadway in the 600 block of North Mountain Road - Resolution No. 6997.  
  
Portions to be vacated were for street curb returns and are no longer needed.
- \*c. Granting an easement to Salt River Project for underground power at tract "A" Carriage Lane II - Resolution No. 6998.  
  
Easement is needed to replace overhead power lines with underground lines.

- \*d. Extinguishing an easement for emergency vehicles in Moondance Town homes - Resolution No. 6999.  
  
Easement area is no longer needed for emergency access.
- \*e. Deleted.
- \*f. Ordering the sale of not to exceed \$24,000,000 principal amount of the City's General Obligation Bonds, Series 1997 - Resolution No. 7000.
- \*g. Ordering the sale of not to exceed \$94,730,000 principal amount of the City's Utility System Revenue Bonds, Series 1997 - Resolution No. 7001.

8. Consider the following recommendations from the Parks and Recreation Board.

- a. Adopting proposed fee increases for selected parks and recreation programs and services.

It was moved by Councilmember Pomeroy, seconded by Councilmember Stapley, that the recommendations of staff be approved.

Councilmember Payne requested that items 8a and 8b be voted on separately.

Mayor Brown asked that Councilmember Pomeroy withdraw the motion to allow for separate votes on items 8a and 8b.

Councilmember Pomeroy withdrew the motion. Councilmember Stapley withdrew the second to the motion.

It was moved by Councilmember Pomeroy, seconded by Councilmember Stapley, that the recommendations of staff be approved.

Upon tabulation of votes, it showed:

AYES - Brown-Gilbert-Giles-Kavanaugh-Pomeroy-Stapley  
NAYS - Payne  
ABSENT - None

Mayor Brown declared the motion carried by majority vote.

- b. Adopting proposed fee increases for the City of Mesa Cemetery.

It was moved by Councilmember Pomeroy, seconded by Councilmember Stapley, that the proposed fee increases for the City of Mesa Cemetery be approved.

Carried unanimously.

9. Consider adopting criteria for approving the closing and providing cul-de-sacs on intersecting streets along Gilbert Road from Southern Avenue to Main Street as recommended by the Transportation Committee.

Karsten Hansen, 1924 East 2nd Avenue, spoke in opposition to the modification of the criteria and stated the opinion that the reduction from 100 percent approval to 85 percent approval of the affected residents is unfair to individuals who oppose the closure.

Vice Mayor Gilbert, who serves as Chairman of the Transportation Committee, reported that the Committee determined that the establishment of a lower criteria was an equitable manner in which to determine whether a street should be developed into a cul-de-sac.

Councilmember Giles concurred with Vice Mayor Gilbert's remarks and explained that following citizen input it was determined that the closure of the streets would address safety concerns and property value issues. Councilmember Giles expressed the opinion that lowering the criteria represents an equitable method of determining approval of a cul-de-sac.

Councilmember Kavanaugh indicated concurrence with Vice Mayor Gilbert's and Councilmember Giles' comments and commended the neighbors for working together to protect and preserve the environment of the neighborhood.

It was moved by Vice Mayor Gilbert, seconded by Councilmember Giles, that the recommendations of staff be approved.

Carried unanimously.

10. Adjournment.

It was moved by Councilmember Stapley, seconded by Vice Mayor Gilbert, that the Regular Council Meeting adjourn at 6:20 p.m.

Carried unanimously.

---

WAYNE BROWN, MAYOR

ATTEST:

---

BARBARA JONES, CITY CLERK

Regular Council Meeting  
March 3, 1997  
Page 8

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 3rd day of March 1997. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 19<sup>th</sup> day of March 1997

---

BARBARA JONES, CITY CLERK