



COUNCIL MINUTES

December 13, 2010

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on December 13, 2010 at 5:50 p.m.

COUNCIL PRESENT

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

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

Invocation by Reverend Stewart Lewis, Velda Rose United Methodist Church.

Pledge of Allegiance was led by Councilmember Finter.

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.

Awards, Recognitions and Announcements.

Mayor Smith announced that tonight the football team from Desert Ridge High School, which is located in Mesa and part of the Gilbert Public School District, was challenging Chandler's Hamilton High School for the 5A-1 State Championship title. He recognized the school for its scholastic and athletic achievements and proclaimed December 13, 2010 as Desert Ridge High School Day.

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 Kavanaugh, seconded by Vice Mayor Jones, that the consent agenda items be approved.

Carried unanimously.

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

Minutes from the November 15 and 18 and December 6, 2010 Council meetings.

3. Take action on the following liquor license applications:

*3-a. Dos Gringos Mexigrill

Person to Person Location to Location Transfer of a Bar License for Dos Gringos Mexigrill. 1958 South Greenfield Road, DG Baseline LLC – Jesus Manuel Altamirano, Agent. This location has a Restaurant License held under DG Baseline LLC that will revert back to the State. **(District 6)**

*3-b. Café Roma

New Restaurant License for Café Roma, 2011 North Recker Road, Peter Pizzurro, Individual. This location has a Restaurant License held under Anthony Magliozzi that will revert back to the State. **(District 5) Recommendation for denial.**

4. Take action on the following contracts:

*4-a. Purchase of Replacement Audio/Video and Editing Bay Equipment for the Public Information and Communications Department. **(Citywide)**

The Purchasing Division recommends authorizing purchase from the State of Arizona contract with AZAV, Inc. at \$155,877.58, and authorizing purchase from the National IPA contract with CDW-G at \$26,924.16. The combined total award is \$182,801.74, including applicable sales and use taxes.

*4-b. Term Contract for Bulk Methanol for the Water Resources Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to TARR LLC at \$45,000 annually, including applicable sales tax, based on estimated requirements.

*4-c. Dollar-Limit Increase to the Contract for Sodium Hypochlorite for the Water Resources Department. **(Citywide)**

The Purchasing Division recommends increasing the dollar-limit of the contract with HASA, Inc. by \$70,000, from \$315,400 to \$385,400, annually. The increase is based on the estimated requirements through the contract period.

*4-d. Northwest Plant Centrifuge Scroll Repair and Tile Replacement and Greenfield Plant Centrifuge Gear Replacement for the Water Resources Department. **(Single Bidder) (Sole Source) (Citywide)**

The Purchasing Division recommends authorizing the repair with the single bidder and sole source vendor, GEA Westfalia Separator, Inc., at \$71,204.12 for the Scroll Repair and Tile Replacement, and \$129,275.31 for the Gear Box Replacement (funded by Mesa, Gilbert and Queen Creek), including applicable use tax. The City's share is \$54,295.63. The combined total amount is \$200,579.43.

- *4-e. Term Contract for Traffic Signal Cabinets and Replacement Components for the Transportation Department (Fully Funded by Transportation Sales Tax). **(Citywide)**

The Purchasing Division recommends awarding the contract to the lowest, responsive and responsible bidder, Phoenix Highway Products, at \$302,188.05 annually, including applicable sales tax.

- *4-f. Term Contract for Water Treatment Chemicals for the Water Resources Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to multiple vendors, the lowest, responsive and responsible bidders for the various water treatment chemicals. The total contract amount is \$4,388,724 for the initial term of January 1, 2011 through June 30, 2012.

- *4-g. ITS Traffic Signal Conversions Phase 4A, West Broadway Corridor. **(Districts 3 and 4)**

City Project 06-080-001. This project will install over five miles of new underground conduit and fiber-optic cable along Broadway Road (from El Dorado Road to Country Club Drive), along Dobson Road (from Broadway Road to Southern Avenue), and along Alma School Road (from Broadway Road to Southern Avenue). Also included are new traffic signal controller cabinets, video detection system cameras, and closed circuit television cameras.

Recommend award to the low bidder, CS Construction, Inc., in the amount of \$918,091.00 plus an additional \$91,809.10 (10% allowance for change orders) for a total award of \$1,009,900.10. This project will be funded with two approved grants from the Federal Highway Administration (FHWA), comprised of \$549,334.00 from the American Reinvestment and Recovery Act of 2009 (ARRA) program and \$644,031.00 from the Congestion Mitigation and Air Quality Improvement (CMAQ) program, for a total grant amount of \$1,193,365.00.

- *4-h. **Deleted.**

5. Take action on the following resolutions:

- *5-a. Approving and authorizing the City Manger to execute a Development Agreement for City Share Reimbursement between Taylor Morrison/Arizona, Inc., an Arizona corporation, and the City of Mesa for the reimbursement of \$50,040.52 for regional street lighting improvements that are being required by Mesa in conjunction with a proposed residential subdivision known as Trovita Estates located at 915 North Val Vista Drive. Mesa's share of funding for the improvements is budgeted in the FY 2010/11 City Share Budget from Transportation Sales Tax – Resolution No. 9789.

- *5-b. **Deleted.**
- *5-c. Approving and authorizing the City Manager to execute an Intergovernmental Agreement between the City of Mesa and Mesa Public Schools to provide solid waste and recycling collection services – Resolution No. 9790.
- *5-d. Approving the 2011 Agriculture Master Lease and authorizing the City Manager to lease agricultural property and to enter into leases and amendments – Resolution No. 9791.

6. Introduction of the following ordinances and setting January 10, 2011, as the date of the public hearing on these ordinances:

- *6-a. **Z10-32 (District 1)** 740 East Main Street. Located east of Mesa Drive on the north side of Main Street (6,200± sq. ft.) Council Use Permit. This request will allow the expansion of an existing pawn shop. Red Mountain Asset Fund I, LLC., owner; Susan Demmitt, Beus Gilbert, PLLC., applicant. (PLN2010-00331) **(CONTINUED TO THE JANUARY 10, 2011 COUNCIL MEETING.)**

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

- *6-b. **Z10-27 (District 4)** 638 West Broadway Road, Suite 301. Located west of Country Club Drive on the north side of Broadway Road (2000+/- sq. ft.) Council Use Permit. This request will allow the operation of a recycling center in an M-2 zoning district. BMC Properties LLC., owner; Michelle Dahlke, Arizona Planning Solutions, applicant. (PLN2010-00296)

P&Z Recommendation: Approval with Conditions. (Vote: 6-0, Boardmember Hudson absent)

7. 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 City 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 City Clerk before Council votes on the Consent Agenda.

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

Speed Limits (45 mph): 10-4-3

Establish a speed limit of 45 mph on Power Road from Baseline Road to the south City limits. (Power Road south of Baseline Road) **(District 6)** – Ordinance No. 5013.

- *7-b. **Z10-31 (District 6)** 1958 South Greenfield Road. Located north of Baseline Road and west of Greenfield Road (10,000± sq. ft.). Council Use Permit. This request will allow a commercial recreation/entertainment land use within a C-2 zoning district. WWW AHF Partners, LLC., owner; Lori Rutten, Dos Gringos, applicant. (PLN2010-00310) – Ordinance No. 5014.

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

- *7-c. **Z10-33 (District 5)** 1709 North Greenfield Road. Located south of McKellips Road on the east side of Greenfield Road (3.32± acres). Council Use Permit. This request will allow the expansion of an existing Charter School in an M-1 zoning district. Anjum Majeed, owner/applicant. (PLN2010-00316) – Ordinance No. 5015

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

- *7-d. **Z10-34 (District 1)** 1903 North Country Club Drive. Located south of McKellips Road on the east side of Country Club Drive (7.47± acres). Rezone from C-2 to R-4 BIZ and Site Plan Review. This request will bring the zoning of the site into conformance with the existing land use. Ryan Lynch, owner/applicant. (PLN2010-317) – Ordinance No. 5016.

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

- *7-e. Amending the Mesa Tax Code Section 5-10-595(C) "Collection of Taxes When There is Succession..." as a result of the adoption of changes to the Model City Tax Code and Section 5-10-300.1 "Who Must Apply for a License" to align it with other sections of the Mesa City Tax Code as recommended by the Audit and Finance Committee – Ordinance No. 5017.

- *7-f. Amending the Mesa Tax Code Section 5-10-447 "...Additional Tax Upon Transient Lodging" updating the Transient Lodging Tax rate from 3% to 5% as approved in the election held on November 2, 2010 – Ordinance No. 5018.

- *7-g. Repealing the existing provisions of the Mesa City Code, Title 1, Chapter 21 and adopting a new chapter regarding City Purchase of Tangible Personal Property as recommended by the Audit and Finance Committee – Ordinance No. 5019.

Items not on the Consent Agenda

- 8. Conduct a public hearing prior to the release of the petition for signatures for the following proposed annexation:

- 8-a. **A10-04 (District 3)** Annexing land located east of Country Club Drive and south of the US 60 Superstition Freeway, 112 West Iron Avenue (6.24± ac). Initiated by the property owner, P&H Mining Inc.

Mayor Smith announced that this was the time and place for a public hearing regarding annexing land located east of Country Club Drive and south of US 60 Superstition Freeway.

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

- 9. Introduction of the following ordinance and setting January 10, 2011, as the date of the public hearing on this ordinance:

- 9-a. Amending Mesa City Code Title 7, Chapter 2 "Fire Code" and adopting a new Title 6, Chapter 21 "Fireworks" providing regulations for the sale and use of fireworks.

It was moved by Vice Mayor Jones, seconded by Councilwoman Higgins, that the above-referenced ordinance be introduced and that January 10, 2011 be set as the date of the public hearing on the ordinance.

Mayor Smith stated that 9-a and 10-a relate to an ordinance that would amend the Mesa City Code and provide regulations for the sale and use of fireworks in the City of Mesa. He explained that if 9-a is approved, the ordinance would be introduced tonight and final action would take place on January 10th. Mayor Smith also noted that if the ordinance is adopted on January 10th, it would take effect on February 10th.

Mayor Smith further commented that because of the two-month delay in the implementation of the ordinance if it is adopted on January 10th, staff also included 10-a on the agenda, which is the same ordinance, but with an emergency clause. He said that if 10-a is approved, which would require 6 votes of the Council, the ordinance would become effective immediately as opposed to February 10th.

In response to a question from Councilmember Richins, City Attorney Debbie Spinner clarified that if 9-a passed and 10-a failed, between now and February 10th Mesa's existing law would remain in effect, which is that the use of fireworks within the City limits is prohibited. She said that the sale of fireworks in Mesa would be allowed, but noted that stores would not be required to post signs regarding the use of firework within the City limits.

Mayor Smith remarked that a State law was recently passed which allowed the sale of consumer fireworks and "trumps" the City's ordinance.

Ms. Spinner confirmed Mayor Smith's statement and said that on December 1, 2010 the law went into effect. She reported that the emergency clause would allow the ordinance to become effective immediately and also allow the use of permissible consumer fireworks in the City of Mesa on December 30th through January 1st. Ms. Spinner further remarked that the ordinance would require that any entity selling fireworks post signs advising consumers when they are allowed to use the fireworks.

Responding to a question from Councilwoman Higgins, Ms. Spinner advised that if the emergency clause were passed, staff would work with the retailers to determine a reasonable period of time within which they would be required to post signs.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Smith-Finter-Higgins-Jones
NAYS - Kavanaugh-Richins-Somers

Mayor Smith declared the motion carried by majority vote.

10. Introduce, discuss, receive public comment, and take action on the following ordinance:

10-a. Amending Mesa City Code Title 7, Chapter 2 "Fire Code" and adopting a new Title 6, Chapter 21 "Fireworks" providing regulations for the sale and use of fireworks. This

ordinance includes an emergency provision and will be effective immediately, if adopted.
(3/4 vote required, 6 votes)

Mayor Smith reiterated that this item, which includes the emergency provision, would not affect the ordinance but the timing of the implementation of the ordinance.

It was moved by Councilwoman Higgins, seconded by Vice Mayor Jones, that the above-referenced ordinance be adopted.

Councilmember Richins stated that although he did not support the use of fireworks within the City of Mesa, because it appeared likely that the ordinance would be adopted, he preferred that it go into effect immediately for the benefit of the public.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Smith-Finter-Jones-Higgins-Richins
NAYS - Kavanaugh-Somers

Mayor Smith declared the motion failed.

11. Items from citizens present.

David Douthit, a Mesa resident, expressed a series of concerns regarding the fact that the economy remains in a downturn and that many citizens continue to be significantly impacted in this regard.

12. Adjournment.

Without objection, the meeting adjourned at 6:08 p.m.

SCOTT SMITH, MAYOR

ATTEST:

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 13th day of December 2010. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK