



## COUNCIL MINUTES

October 17, 2011

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on October 17, 2011 at 5:45 p.m.

### COUNCIL PRESENT

Scott Smith  
Alex Finter  
Dina Higgins  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

Christopher Glover

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

(Mayor Smith excused Councilmember Glover from the entire meeting.)

Invocation.

Pledge of Allegiance was led by Scout Sam Heslop, Troop No. 673.

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 reported that the iMesa Village meetings have been successful in providing citizens an opportunity to present ideas that can make a difference in the community. He encouraged the public to attend the next iMesa meeting, which is set for Wednesday, October 19, 2011, 6:00 p.m. at the Mesa Express Library, which is located inside the Power Square Mall.

Mayor Smith invited residents to attend the Financial Planning Day on Saturday, October 22, 2011, from 10:00 a.m. to 2:00 p.m. at the Main Library. He said that Certified Financial Planners would be available free of charge to answer questions.

Mayor Smith advised that this year marks Mesa Parks and Recreation Department's 75<sup>th</sup> Anniversary. He provided a brief history of the Parks and Recreation program, which began in 1936 and noted that the Mesa Parks and Recreation Department is widely recognized as a leader in the industry and currently consists of the following:

- 58 parks
- 134 basins
- 54 multi-purpose athletic fields
- 8 sports complexes
- Municipal golf courses
- State-of-the art recreation center
- Tennis complex
- 9 swimming pools and aquatics complexes
- Convention Center
- Amphitheatre
- Hohokam Stadium (winter home of the Chicago Cubs)
- Mesa Cemetery

Mayor Smith stated that on Saturday, October 22, 2011, from 6:00 p.m. to 9:00 p.m., the Parks and Recreation Department will continue to celebrate its 75<sup>th</sup> Anniversary with a Community Day of Play at Red Mountain Park. He read a proclamation declaring Saturday, October 22, 2011 as a day to commemorate the Parks and Recreation Department.

Parks, Recreation and Commercial Facilities (PRCF) Department Director Marc Heirshberg reported that the Parks and Recreation Department has come a long way in the last 75 years due to the commitment of staff and volunteers. He introduced former Parks and Recreation Directors Wayne Korinek and Joe Holmwood, and presented them with mementos commemorating the Department's 75<sup>th</sup> Anniversary. Mr. Heirshberg added that he was proud to follow in the footsteps of the former Parks and Recreation Directors.

Mayor Smith recognized Mr. Heirshberg and presented him with a memento commemorating his service to the City of Mesa.

Solid Waste Management Department Director Willie Black introduced Solid Waste Equipment Operator Bill Cummings and requested that the Council join him in recognizing Mr. Cummings for his accomplishments at the Solid Waste Association's North American International Rodeo. He said that Mr. Cummings was the First Place winner in the Front Load Competition, the Overall Truck Competition and received the "Top Gun" Award for North America.

Mayor Smith remarked that Mr. Cummings was the "Top Gun" for the entire United States and not just the City of Mesa.

Mr. Black noted that the Solid Waste Department sends their best employees to the State and international competitions and stated that this year, Mr. Cummings returned as the best in the country.

Mayor Smith thanked Mr. Cummings for his service and for being a great representative for the City.

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 Somers, that the consent agenda items be approved.

Mayor Smith declared the motion carried unanimously by those present.

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

Minutes from the February 24, September 12, 22, 26, and October 3, 2011 Council meetings.

3. Take action on the following appointment:

3-a. Discuss and take action on the appointment of John Pombier as Deputy City Manager.

City Manager Christopher Brady described the City of Mesa's extensive hiring process for the selection of a new Deputy City Manager. He reported that Mr. Pombier has served as City Prosecutor and noted that for the past nine months, has worked in the City Manager's Office assisting in a variety of assignments. Mr. Brady remarked that Mr. Pombier has proven himself to be a great asset to the office and recommended that he be appointed as the new Deputy City Manager.

Vice Mayor Somers spoke regarding Mr. Pombier's background as an attorney and expressed support for his appointment as Deputy City Manager.

Mr. Brady acknowledged that Mr. Pombier's background as an attorney would bring "an interesting dimension" to the office.

Councilmember Kavanaugh commented that he had the privilege of serving on the prior Council that approved Mr. Pombier's appointment as City Prosecutor. He stated that Mr. Pombier has "a stellar reputation" with staff and the legal community and also played an important role in planning the new Municipal Court Building. Councilmember Kavanaugh voiced support for the appointment of Mr. Pombier as Deputy City Manager and added that he was a "go-to-guy" who would provide great leadership.

Mayor Smith commented on the extensive hiring process designed to gather "a wide variety of responses from a wide variety of people." He stated that it was gratifying to know that "one of our own" made it through the process. Mayor Smith congratulated Mr. Pombier and noted that he had confidence in the City's hiring process, as it has brought top managers and department heads to the organization in the past.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Somers, that the appointment of John Pombier as Deputy City Manager be approved.

Mayor Smith declared the motion carried unanimously by those present.

4. Take action on the following liquor license applications:

\*4-a. Anthology

This is a one-day charitable event to be held on Thursday, November 10, 2011 from 6:00 p.m. to 11:00 p.m. at 108 West Main Street. **(District 4)**

\*4-b. Big Brothers Big Sisters of Central Arizona

This is a one-day charitable event to be held on Saturday, October 22, 2011 from 5:30 p.m. to 9:30 p.m. at 1924 West 8<sup>th</sup> Street. **(District 1)**

\*4-c. Downtown Mesa Association

This is a one-day civic event to be held on Friday, October 28, 2011 from 8:00 p.m. to 11:59 p.m. at 1 to 99 West Main Street. **(District 4)**

\*4-d. Downtown Mesa Association

This is a two-day civic event to be held on Friday, November 11, 2011 from 12:00 p.m. to 9:00 p.m. and Saturday, November 12, 2011 from 9:00 a.m. to 5:00 p.m. at North Macdonald Street between Pepper Place and Main Street. **(District 4)**

\*4-e. Knights of Columbus All Saints Council 9485

This is a one-day fraternal event to be held on Saturday, November 5, 2011 from 3:00 p.m. to 7:00 p.m. at 1534 North Recker Road. **(District 5)**

\*4-f. Casa Ramos

New Restaurant License for Casa Ramos, 1526 East Main Street, Casa Ramos II LLC – Benjamin Ramos, Agent. This location had a Restaurant License held by El Galeon Mexican Seafood & Restaurant, issued on 5/7/02 and terminated by the State on 3/31/10. **(District 2)**

\*4-g. China City Super Buffet

New Restaurant License for China City Super Buffet, 6005 East Southern Avenue, Suite 105, China City Super Buffet Inc – Yang Chun Lu, Agent. This is an existing building without a previous liquor license at this location. **(District 6)**

\*4-h. Tay Do Restaurant

New Restaurant License for Tay Do Restaurant, 66 South Dobson Road, Suite 107, Nha Hang Tay Do LLC – Ha Kiet Huynh, Agent. This location has a Restaurant License held under Chicken Noodle House LLC that will revert back to the State. **(District 3)**

\*4-i. National Kidney Foundation of Arizona

This is a one-day charitable event to be held on Saturday, October 29, 2011 from 10:00 a.m. to 10:00 p.m. at 922 South Country Club Drive. **(District 3)**

5. Take action on the following contracts:

\*5-a. Term Contract for Crack Seal Material and Application Services for the Transportation Department. **(Citywide)**

The Purchasing Division recommends awarding the contract to the lowest, responsive and responsible bidder, CPC Construction, Inc., at \$654,613.87 annually, including applicable sales tax, based on estimated requirements.

\*5-b. Term Contract for Storm Drain Grates and Manhole Covers for the Transportation Department. **(Single Bid) (Citywide)**

The Purchasing Division recommends awarding the contract to the single bidder, Grate Solutions Co., Inc., dba GSC at \$84,031.68, including applicable sales tax, based on estimated requirements.

\*5-c. Term Contract for Traffic Paint for the Transportation Department. **(Citywide)**

The Purchasing Division recommends utilizing the Arizona Department of Transportation cooperative contract with Ennis Paint, Inc. at \$175,000, including applicable sales tax, and based on estimated requirements.

\*5-d. Renewal of the Term Contract for Ultra Thin Bonded Wearing Course Material and Installation Services for the Transportation Department. **(Citywide)**

The Purchasing Division recommends utilizing the S.A.V.E. contract through the Town of Gilbert with Sunland Asphalt at \$690,000, including applicable sales tax, and based on estimated requirements.

\*5-e. Renewal of the Term Contract for Replacement Playground Equipment and Parts for the Parks, Recreation and Commercial Facilities Department. **(Citywide)**

The Purchasing Division recommends authorizing renewal with Dave Bang Associates, Inc. (a Mesa business) at \$85,000 annually, based on estimated requirements.

\*5-f. Purchase of Network Hardware and Cabling Materials for CIP Project 01-918-001, Public Safety Training Facility Improvements. **(Citywide)**

The Purchasing Division recommends authorizing purchase from the State of Arizona Contract with Enterasys Secure Networks at \$64,352.10; and various cabling materials purchased through normal purchasing processes from various vendors estimated at \$4,500, for a combined total of \$68,852.10, including applicable taxes.

\*5-g. **DELETED.**

\*5-h. Fairway Gardens Gas Line and Water Line Replacement. **(District 1)**

City Project 01-557-009. This project will abandon the existing water and gas lines that run along the front yards and place new water and gas lines under the paved roadways to avoid driveways and private landscaping conflicts. All water and gas services will be re-connected to their respective main lines with new water and gas meters. Fairway Gardens are the subdivisions north and south of McLellan Road between Alma School and North Revere.

Recommend award to the lowest bidder, NPL Construction Company, in the amount of \$2,062,925.00, plus an additional \$206,292.50 (10% allowance for change orders) for a total award of \$2,269,217.50. Funding is available in the FY 11/12 Water Bond and Gas Bond Capital Programs.

6. Take action on the following resolutions:

- \*6-a. Approving and authorizing the City Manager to execute a Highway Safety Agreement with the Governor's Office of Highway Safety. This Contract provides \$18,000 for equipment to support and enhance Selective Traffic Enforcement – Resolution No. 9934.
- \*6-b. Approving and authorizing the City Manager to execute a Highway Safety Agreement with the Governor's Office of Highway Safety. This Contract provides \$69,000 for overtime and equipment to support and enhance Selective Traffic Enforcement – Resolution No. 9935.
- \*6-c. Approving and authorizing the City Manager to execute a Highway Safety Agreement with the Governor's Office of Highway Safety. This Contract provides \$17,000 for overtime expenses to provide public awareness and educational activities to support Traffic Safety Education – Resolution No. 9936.
- \*6-d. Approving and authorizing the City Manager to execute a Grant Agreement with the Arizona Criminal Justice Commission to accept grant funds in the amount of \$109,213 for training, equipment and overtime for the Police Department's Forensic Services Section – Resolution No. 9937.
- \*6-e. Approving and authorizing the City Manager to execute a Grant Agreement with the Arizona Criminal Justice Commission to accept grant funds in the amount of \$41,405 for training for the Police Department's Forensic Services Section – Resolution No. 9938.
- \*6-f. Approving and authorizing the City Manager to execute an Intergovernmental Agreement with the Salt River Pima-Maricopa Indian Community for the receipt and distribution of grants from their Proposition 202 – 12% contribution program. The awards will be \$75,000 for Arizona Science Center Hands-On Science Opportunities; \$10,000 for Arizona Town Hall Community Outreach Programs; \$50,000 for the Mesa Fire Department Childhood Immunization Program; \$88,000 for the Mesa Public Schools Native American Education Program; and \$199,400 for the United Food Bank Emergency and Supplemental Food Program – Resolution No. 9939.
- \*6-g. Setting November 7, 2011 as the public hearing date for the continuation of the Mesa Town Center Improvement District No. 228. The Mesa Town Center Improvement District

No. 228 was established to provide enhanced municipal services for the Town Center.  
**(District 4)** – Resolution No. 9940.

7. Take action on the following contract and resolutions regarding the Chicago Cubs Spring Training Facility and Site Development:

- 7-a. Chicago Cubs Spring Training Facility and Riverview Site Development **(District 1) (See “Items not on the Consent Agenda.”)**
- 7-b. Approving and authorizing the City Manager to execute the Development Agreement (Spring Training Facilities) between the City of Mesa and the Chicago Cubs Baseball Club, LLC. **(See “Items not on the Consent Agenda.”)**
- 7-c. Approving and authorizing the City Manager to execute the Facilities Use Agreement (Spring Training Facilities) between the City of Mesa and the Chicago Cubs Baseball Club, LLC. **(See “Items not on the Consent Agenda.”)**
- 7-d. Approving and authorizing the City Manager to execute the Option Agreement between the City of Mesa and Mesa Development Holdings, LLC. **(See “Items not on the Consent Agenda.”)**

8. Introduction of the following ordinances and setting November 7, 2011, as the date of the public hearing on these ordinances:

- \*8-a. **Z11-17 (District 4)** The 300 West through 100 blocks of East Main Street (north and south sides). Located between 1<sup>st</sup> Street and 1<sup>st</sup> Avenue from Country Club Drive to Macdonald; and located between 1<sup>st</sup> Street and 2<sup>nd</sup> Avenue from Macdonald to Centennial Way/Sirrine (150±acres). Rezone from TCC, TCR-2 and TCB-1 to TCC-DE, TCR-2DE, and TCB-1DE. This request will establish a Downtown Events Overlay District along the Main Street corridor. Various owners; City of Mesa, applicant.
- \*8-b. **Z11-24 (District 3)** 1954 West Broadway. Located on the northeast corner of Dobson Road and Broadway Road (1± acres). Council Use Permit. This request will allow the development of a Pawn Shop. Bloomer Family Trust, owner; Charles Huellmantel, applicant (PLN2011-00200).
- \*8-c. Amending Title 10, Chapter 4 of the Mesa City Code to establish speed limits of 30 miles per hour on certain sections of Mesa Drive and Springwood Boulevard. **(Districts 1 & 6)**
- \*8-d. Amending Title 10, Chapter 10 of the Mesa City Code to simplify the citation and court process for Temporary Traffic Control violations, and authorizing clarifications and corrections of the Traffic Barricade Manual to be issued. **(Citywide)**

9. Discuss, receive public comment, and take action on the ordinance 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.

- \*9-a. **Z11-22 (District 1)** East and West Dobson Road, along the 202 Freeway (south side). Modification of a Council Use Permit. This request will allow for the redesign of the

Freeway Landmark Signs for the Mesa Riverview retail center. Kimco Riverview, owner; Kimco Realty, applicant – Ordinance No. 5064.

P&Z Recommendation: Approval with conditions. (Vote 5-1-1, Boardmember DiBella abstained, Roberts absent)

### **Items not on the Consent Agenda**

#### 7-a. Chicago Cubs Spring Training Facility and Riverview Site Development. **(District 1)**

City Project 10-554-001. Recommend to approve the selection of Hunt Construction Group, Inc., as the Construction Manager at Risk (CM@Risk) Contractor, and authorize the City Manager to enter into a Design Phase Services contract in the amount of \$380,000.00 with Hunt Construction Group, Inc. Funding is available in the Enterprise Fund.

City Manager Christopher Brady described the process for selecting the Construction Manager at Risk and said the City conducted a national solicitation for qualified proposals. He explained that the four “best-of-the-best” proposers competed for the project by making presentations to the Project Team and noted that Hunt Construction, a local firm that has built sports complexes across the country, had the top score.

Mr. Brady remarked that Robert Hunt, the owner of Hunt Construction, made a commitment that the Stadium project would be completed on time and under budget. He further commented that Hunt Construction has committed to engage local subcontractors in the project and provide an outreach program, which will generate revenue into the local economy. Mr. Brady added that the Project Team recommends moving forward with the design phase of the Hunt Construction contract.

Thomas Schuelke, a Mesa resident, requested that the Council continue the agenda items related to the Cubs agreements since he has repeatedly asked that the public have time to review the documents. He stated that the financial projections needed to analyze the fiscal impact to the City have not been made available despite his numerous requests.

Mr. Schuelke cited Section 609(A) of the Mesa City Charter as follows: “It is the general intent that open, competitive bidding be followed in the purchase of materials, supplies, commodities, equipment, insurance and capital improvements whenever possible.”

Mr. Schuelke noted that Hunt Construction was selected and a fee was negotiated without the use of a bidding process. He remarked that Hunt Construction was a major contributor to the “Yes on 420” Campaign and said that many citizens may see this contract as “a payback” to Hunt for their contributions made to the campaign.

Mr. Schuelke further voiced concern regarding Councilmembers who may have accepted campaign contributions from Hunt Construction executives and requested that those Councilmembers identify themselves.

Responding to a series of questions from Mayor Smith, Mr. Brady clarified that none of the other applicants filed protests. He also said that Hunt Construction has built more than 100 stadiums across the country.

Mark Yarbrough, a Mesa resident, voiced support for the selection of Hunt Construction, which is “a true local contractor.” He also noted that long before there was talk of a stadium, Hunt Construction was “donating, giving back and supporting the community.”

In response to a question from Vice Mayor Somers, Mr. Brady explained that Hunt Construction was selected based on its merits and professional services and not a dollar amount. He remarked that with a Construction Manager at Risk, the project will have a contractor onboard from the beginning that will be involved in discussions with the Design Team as opposed to a Design/Build, wherein a contractor might not be selected until a significant portion of the design is completed. Mr. Brady also noted that at the preliminary meeting last week, the Design Team and the contractor were present and said that the contractor can provide input regarding the best way to build and the best materials to use.

Field Supervising Engineer Ross Renner indicated that Hunt Construction plans to take bids on all of the trade work that is to be completed. He said that the subcontractors with the lowest bid would be pre-approved and managed by Hunt Construction.

Responding to a question from Vice Mayor Somers, Mr. Brady clarified that the Development Agreement is capped at \$84 million and noted that any funds that are not spent would be set aside and used for capital replacement projects in the future. He added that if the Project Team chooses to exceed the \$84 million, the Cubs would be required to cover the excess amount.

Mayor Smith remarked that the Cubs have a real incentive to stay within budget. He stated that having the contractor involved in the project early saves money. He explained that the lowest bid does not always mean the lowest cost and that by having both the architect and the contractor at the table from the beginning is cost-efficient.

It was moved by Councilmember Finter, seconded by Councilwoman Higgins, that this agenda item be approved.

Mayor Smith declared the motion carried unanimously by those present.

Mayor Smith stated that agenda items 7-b, 7-c and 7-d would be voted on in one motion.

- 7-b. Approving and authorizing the City Manager to execute the Development Agreement (Spring Training Facilities) between the City of Mesa and the Chicago Cubs Baseball Club, LLC – Resolution No. 9941. **(See discussion and vote under 7d.)**
- 7-c. Approving and authorizing the City Manager to execute the Facilities Use Agreement (Spring Training Facilities) between the City of Mesa and the Chicago Cubs Baseball Club, LLC – Resolution No. 9942. **(See discussion and vote under 7d.)**
- 7-d. Approving and authorizing the City Manager to execute the Option Agreement between the City of Mesa and Mesa Development Holdings, LLC – Resolution No. 9943.

Mr. Brady reported that the Development Agreement outlines the terms for the construction and development of the site along with various elements that are to be completed as part of the agreement. He explained that the City of Mesa would pay up to \$84 million for the following elements: construction of the stadium; team facilities; City fields; some public street improvements, parking and onsite utility infrastructure.

Mr. Brady indicated that as previously mentioned, the \$84 million is capped and defined within the Development Agreement. He stated if the Project Team chooses to spend more than \$84 million, the Cubs would be responsible to cover those costs. Mr. Brady further remarked that the City has identified an amount, not to exceed \$15 million, for a minimum of 2,500 public parking spaces, offsite utility infrastructure and public improvements around the stadium. He added that those funds would be used to replace various park amenities that will be displaced as part of the improvements to Riverview Lake.

Mr. Brady briefly highlighted the Facilities Use Agreement (FUA), which outlines the conditions upon which the City of Mesa will lease the Spring Training facilities back to the Cubs. He reported that the term of the lease is for an initial 30 years, with the option to extend the lease up to 50 years. Mr. Brady noted that the FUA includes conditions relating to the amount of the lease, use of the facilities, and the maintenance and operations of the facilities. He said that the Cubs would assume responsibility for the maintenance and operations of the stadium and team facilities and the City would maintain responsibility for the four public fields. Mr. Brady, in addition, commented that the FUA defines the responsibilities for future capital improvements and the collection of revenues from ticket sales and concessions. He said that at this time, the City would be responsible for all future capital improvements and share in the larger capital improvements.

Mr. Brady further reported that the Option Agreement outlines how development will take place and addresses the acquisition of City property for private development. He said that one of the Option Agreements states that the Cubs will pay an initial \$25,000 to develop three acres of property west of Riverview Drive. Mr. Brady explained that this was a performance-based Option Agreement that allows the Cubs a period of time to purchase and develop property. He also noted that prior to Opening Day, the Cubs will have either developed a restaurant within the stadium or 10,000 square feet of commercial space in an area designated west of Riverview Drive. He added that if the development is accomplished, the Option Agreement will be extended for a period of 18 months.

Mr. Brady also remarked that at the present time, the property east of Riverview Drive is not available as it is encumbered by a Federal restriction. He explained that the City is working with the Federal government to identify other park areas where the encumbrance could be moved. Mr. Brady added that once the encumbrance is removed, the Cubs will pay an additional \$25,000 to develop three acres of land east of Riverview Drive.

Mayor Smith clarified that the Option Agreement is exclusively for the Cubs and does not apply to any other developer.

Tom Schuelke once again addressed the Council and expressed a series of concerns regarding the terms in the agreement that allow the Cubs to receive the revenues from ticket sales. He said that the numbers that demonstrate the impact this agreement will have on the City are not available and reiterated his prior request that these matters be continued until such time as the public has an opportunity to review the documents.

Mr. Schuelke also spoke regarding the amount of rent that will be collected from the Cubs and noted that he had assumed the Cubs would donate the land and pay rent for the facility in an amount reduced by Bed Tax collections. He requested that the Council refer the FUA to the voters, as "the low amount of rent" that will be collected from the Cubs was not expressed. He

added that rent under such terms could be considered a violation under the Gift Clause and subject to a Court challenge.

Mr. Schuelke, in addition, remarked that Mesa voters were led to believe that a “yes” vote would keep the Cubs in Mesa for 30 years; however, the contract allows the Cubs to leave after 25 years if they pay an early termination fee. He pointed out that Section 12.7 of the agreement prohibits a transfer of rights, but does not prohibit control changes within Mesa Development Holdings, LLC (MDH). He further requested that the identity of all MDH partners be made public.

Peter Sterling, President of the Mesa Chamber of Commerce, expressed his support for the agreements, as they will move Mesa closer to realizing the “crown jewel” Spring Training facility of the Cactus League. He said that members of the Chamber located in the Riverview area are “excited” as they realize what having the stadium will mean to them in the form of sales tax. Mr. Sterling also noted that the Chamber endorses the selection of Hunt Construction, which is a member of the organization.

Mark Yarborough, a Mesa resident, commented that the documents do not contain anything different from what was proposed during the campaign when voters overwhelmingly supported this project. He stated that the Option Agreement was well negotiated and holds the Cubs’ “feet to the fire,” by preventing them from holding on to the land and never developing it.

Bud Page, a Mesa resident and President of the Mesa Hohokams, said that he, as well as the 197 members of the organization, support the new stadium project. He thanked the Mayor and Council for their expertise and said that he looked forward to the new Spring Training facility and future “Wrigleyville.”

It was moved by Councilmember Richins, seconded by Councilmember Finter, that Resolution Nos. 9941, 9942 and 9943 be adopted.

Vice Mayor Somers advised that he is not a baseball fan and that some citizens may feel that the stadium is not a proper use of taxpayer revenue. He noted that the voters overwhelmingly supported the Cubs’ Spring Training being a part of the community, but did not want to spend more than \$84 million for the stadium and \$15 million for the infrastructure. Vice Mayor Somers remarked that these types of deals are tough and said he believed the City received the best possible deal. He added that he would not be sending this item to a referendum as the voters have spoken; however, if citizens disapprove of the deal, they could collect signatures and have it voted on again.

Responding to a question from Vice Mayor Somers, City Attorney Debbie Spinner explained that Development Agreements are subject to referendum. She said that if the Development Agreement does not meet the intent of the prior vote, there could be a vote to change the project. Ms. Spinner stated the opinion that the Development Agreement and the FUA are consistent with the Memorandum of Understanding (MOU) that was adopted by the Council in January of 2010 and approved by the voters in November. She added that citizens can always take out petitions with respect to any action taken by the Council.

Vice Mayor Somers remarked that although he probably will not attend any Cubs games after he leaves office, “the will of the voters has been put forward,” the City has done its best, and he will support the agreements.

Councilwoman Higgins commented that some of the documents have been available to the public for well over a year and said that only in the last two weeks have the documents been packaged together. She noted that nothing has changed from the original package that was put forward in the "Yes on 420" Campaign and said she was supportive of the agreements that have been presented. Councilwoman Higgins also expressed appreciation to Ms. Spinner and her staff for the extensive amount of time they have spent on this project.

Councilmember Finter remarked that he "did not jump on the bandwagon" with respect to this project and nor has he accepted any contributions from the Cubs or been contacted by anyone from the organization. He thanked the City Manager, the City Attorney and staff for their efforts on this project which, in his opinion, was by no means "a walk in the park." Councilmember Finter added that he did not believe there had been any corruption or undue influence with respect to this process or that the citizens of Mesa have been "sold out."

Councilmember Kavanaugh indicated that he has been through the process of negotiating stadium agreements in the past and believes that the City learned from the experiences of other sports facilities in the Valley. He expressed his appreciation to the City Manager and City Attorney, who have been "champion advocates" in the difficult task of negotiating the "nuts and bolts" of the agreement. Councilmember Kavanaugh stated the opinion that the agreements are consistent with what voters approved, contain protections for the community and voiced support for the project. He added that he has not received any campaign money from Hunt Construction and did not believe the Gift Clause had been violated.

Mayor Smith said that there have been intense negotiations between the parties, however, he was confident that what was presented to voters was followed in the final agreement. He commented that the arguments presented today are restatements of arguments made during the campaign and noted that as compared to other Cactus League agreements, Mesa's, by far, "stacks up" as the fairest for the City and the taxpayers. Mayor Smith thanked staff for their efforts and hard work. He acknowledged that change is difficult, but said the end result would be something to be proud of. He added that he would support items 7b, 7c and 7d.

Mayor Smith called for the vote.

Mayor Smith declared the motion carried unanimously by those present and Resolution Nos. 9941, 9942 and 9943 were adopted.

10. Items from citizens present.

Thomas Schuelke, a Mesa resident, reiterated his previous statements regarding key provisions of the agreement that were not made available to the public. He stated that he had raised questions that were not addressed and he has not received any responses to emails he submitted to Councilmembers. He said he had concerns the Council was disrespecting the citizens of Mesa by not having documents available and responding to his questions.

In response to comments made by Mr. Schuelke, Mayor Smith noted that he, as well as several of the Councilmembers, have responded to Mr. Schuelke's emails on different occasions. He said that he would not respond to emails raising arguments that have already been addressed in previous emails. Mayor Smith thanked Mr. Schuelke for his comments.

Mary Chavez, a Mesa resident, expressed concerns regarding her water bill which, as a result of the new 3,000 gallon minimum usage fee, is double what it was in the past. She explained that her business uses minimal water and the City is now penalizing residents for conserving water. She stated that the charges should apply to residents who use exorbitant amounts of water and not directed towards those that conserve or use a minimal amount.

Ms. Chavez further suggested that the charges be imposed beginning with a minimum usage of 5,000 gallons of water, with increases at appropriate levels. She said that due to road construction, she would be moving her business and will now need to consider the water usage when looking for a new location. She added that the additional costs will have a significant impact on her new business.

Mayor Smith thanked Ms. Chavez for her comments and said that staff would be available following the meeting to answer any questions regarding the implementation of the new fee.

11. Adjournment.

Without objection, the meeting adjourned at 7:25 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 17<sup>th</sup> day of October 2011. I further certify that the meeting was duly called and held and that a quorum was present.

---

LINDA CROCKER, CITY CLERK

bdw/pag