



COUNCIL MINUTES

April 21, 2014

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on April 21, 2014 at 5:47 p.m.

COUNCIL PRESENT

Alex Finter
Christopher Glover
Dennis Kavanaugh
David Luna
Dave Richins

COUNCIL ABSENT

Scott Somers

OFFICERS PRESENT

Christopher Brady
Debbie Spinner
Dee Ann Mickelsen

Mayor Finter excused Councilmember Somers from the entire meeting.

Invocation by Kumar Sahajwani with the Sant Nirankari Mission.

Pledge of Allegiance was led by former City Clerk Linda Crocker.

Swearing In of Mayor Alex Finter.

Mayor Finter was sworn in as Mayor by Maricopa County Superior Court Judge Peter Thompson.

Mayor Finter thanked his family and friends for their love and support during his tenure on the City Council. He also expressed appreciation to his fellow Councilmembers, many of whom he has worked with for more than six years. He further recognized City Manager Christopher Brady and City staff for their dedication and professionalism. He also stated that Mesa was a wonderful community in which to live and added that he was honored to serve as its Mayor.

Mayor's Welcome.

Appointment of Vice Mayor.

It was moved by Councilmember Kavanaugh, seconded by Councilmember Luna, that Councilmember Glover be elected to serve as Vice Mayor.

Mayor Finter stated that the motion carried unanimously by those present. He congratulated Vice Mayor Glover on the appointment.

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.

Councilmember Richins asked that item 6-a be removed from the consent agenda.

Mayor Finter stated that several citizens have requested that items 6-a and 6-c be removed from the consent agenda.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Glover, that receipt of the consent agenda, as modified, be approved.

Mayor Finter declared the motion carried unanimously by those present.

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

Minutes from the April 3 and 7, 2014 Council meetings.

3. Take action on the following liquor license applications:

*3-a. Ultimate Imaginations

This is a one-day charitable event to be held on Friday, May 2, 2014 from 5:00 p.m. to 11:00 p.m., on Macdonald from Main Street to Pepper Place. **(District 4)**

*3-b. Ultimate Imaginations

This is a one-day charitable event to be held on Friday, June 6, 2014 from 5:00 p.m. to 11:00 p.m., on Macdonald from Main Street to Pepper Place. **(District 4)**

*3-c. Fry's Food & Drug 23

A grocery store is requesting to add sampling privileges to their existing Liquor Store License for Fry's Food & Drug 23, 5941 East McKellips Road, Smith's Food and Drug Centers, Inc. – Robert Joseph Nelson, agent. The existing Liquor Store license held by Smith's Food and Drug Centers, Inc., will revert back to the State for modification. **(District 5)**

*3-d. Fry's Food & Drug 62

A grocery store is requesting to add sampling privileges to their existing Liquor Store License for Fry's Food & Drug 62, 554 West Baseline Road, Smith's Food and Drug Centers, Inc. – Robert Joseph Nelson, agent. The existing Liquor Store license held by Smith's Food and Drug Centers, Inc., will revert back to the State for modification. **(District 3)**

*3-e. Fry's Food & Drug 123

A grocery store is requesting to add sampling privileges to their existing Liquor Store License for Fry's Food & Drug 123, 2727 East Broadway Road, Smith's Food and Drug Centers, Inc. – Robert Joseph Nelson, agent. The existing Liquor Store license held by Smith's Food and Drug Centers, Inc., will revert back to the State for modification. **(District 2)**

*3-f. Fry's Marketplace 622

A grocery store is requesting to add sampling privileges to their existing Liquor Store License for Fry's Marketplace 622, 1935 North Stapley Drive, Smith's Food and Drug Centers, Inc. – Robert Joseph Nelson, agent. The existing Liquor Store license held by Smith's Food and Drug Centers, Inc., will revert back to the State for modification. **(District 1)**

*3-g. Burger Fi

A restaurant that serves lunch and dinner is requesting a new Restaurant License for Obsidian Enterprises LLC, 1939 South Val Vista Drive, Suite 105 – Randy Nations, agent. This is an existing building with no current liquor license. **(District 2)**

*3-h. Cogburn's Big Wings

A restaurant that serves lunch and dinner is requesting a new Restaurant License for Big Wings II, Inc., 5221 South Power Road, Suite 107-109 – Kenneth Michael LaCivita, agent. The previous license held at this location by Red Koi, LLC, will revert back to the State. **(District 6)**

*3-i. Smashburger 1401

A restaurant that serves lunch and dinner is requesting a new Restaurant License for Smashburger Acquisition Phoenix, LLC, 2837 North Power Road Suite 102 – Andrea Lewkowicz, agent. The previous license held at this location by Sunwest Burger, LLC, will revert back to the State. **(District 5)**

4. Take action on the following contracts:

*4-a. Dollar-Limit Increase to the Term Contract for Uniform Garments for Citywide Use. (Citywide)

Through its uniform purchase program, the City purchases and issues garments to certain employee classifications. Items include t-shirts, polo shirts, jeans, traditional uniform shirts and pants, jackets, hats and ball caps. Departments using this contract include Energy Resources, Facilities Maintenance, Fleet Services, Parks, Recreation and Commercial Facilities, Solid Waste Management and Water Resources.

Usage by departments is greater than initially estimated and the dollar-limit increase is required for purchases through the following years of the initial term of the contract.

Purchasing recommends authorizing a dollar-limit increase with International Corporate Apparel, at \$80,000, increasing the contract amount from \$200,000 to \$280,000 annually, based on estimated requirements.

- *4-b. Three (3)-Year Term Contract for the Executive Physical Examination Services requested by the Human Resources Department. **(Citywide)**

This contract provides annual physicals for City of Mesa executive staff as a means of maintaining optimum health.

An evaluation committee representing Human Resources and Purchasing evaluated responses and recommends awarding the contract to the highest-scored proposal from Banner Occupational Health Clinics, at \$88,500 annually, based on estimated requirements.

- *4-c. Three (3)-Year Term Contract for the Safety Shoe Program for the Human Resources Department. **(Citywide)**

The contract will provide qualified vendors to provide safety shoes/boots for approximately 750 City employees who perform duties where safety shoes are required. For a majority of these employees, the City provides an \$85 allowance toward the cost of these shoes. Approximately 900 pairs of shoes are purchased annually.

An evaluation committee representing Human Resources and Purchasing evaluated responses and recommends awarding the contract to the highest-scored proposals from American Safety Shoe Co. Inc., Boot Barn (a Mesa business), Bound Tree Medical, LLC, International Corporate Apparel, J.R.'s Shoes and Boots, LeHigh Outfitters, Red Wing Shoes (a Mesa business), United Fire Equipment, and Universal Police Supply, not to cumulatively exceed \$150,000 annually, based on estimated requirements.

- *4-d. Three (3)-Year Term Contract for Asbestos and Lead-Based Paint Abatement for the Development and Sustainability Department. **(Citywide)**

This contract will provide qualified contractors for the abatement of hazardous materials, primarily asbestos containing materials and lead-based paint, on an as-needed basis at City facilities and for City projects.

An evaluation committee representing Development and Sustainability and Purchasing evaluated responses and recommends awarding the contract to the highest-scored responses from American Technologies, Inc., Comprehensive Risk Services, LLC, D&K Enterprises, LLC (a Mesa business), Kary Environmental Services, Inc. (a Mesa business), Native Environmental, LLC, and Spray Systems of Arizona, Inc., not to cumulatively exceed \$150,000 annually.

- *4-e. Purchase of Two (2) New Vehicles for the Police Department. **(Citywide)**

This purchase will provide two vehicles for the Police Department. The purchase of these vehicles will give the Police Department the ability to reduce their leased fleet by two.

Police and Purchasing recommend authorizing the purchase using the State of Arizona cooperative contracts with Chapman Ford at \$25,648.52 and Larry Miller Toyota at \$27,653.74, for the total award of \$53,302.26. This purchase is funded by Asset Forfeiture RICO funds.

- *4-f. One (1)-Year Renewal of the Term Contract for Jet “A” Aviation Fuel for the Police Department. **(Citywide)**

This contract provides Jet “A” Aviation fuel for the Police Aviation Unit. The Unit operates three helicopters based at their facility located at the Falcon Field Airport. Prices are a fixed markup of \$0.105 over the weekly Platt’s LA Jet index price.

Police and Purchasing recommend authorizing a one-year renewal with Mercury Fuels, Inc., at \$275,000 annually, based on estimated requirements.

- *4-g. Two (2)-Month Contract Extension and Dollar-Limit Increase to the Term Contract for Custodial Services for Non-Secured City Buildings as requested by Facilities Maintenance. **(Citywide)**

Facilities Maintenance and Purchasing are requesting a contract extension (through 6/30/2014) and corresponding dollar-limit increase while staff continues to evaluate Request for Proposal responses for a new contract.

Facilities Maintenance and Purchasing recommend authorizing a two-month contract extension and dollar-limit increase of \$180,000, from \$536,383.60 to \$716,383.60, with GCA Services Group (a Mesa business), based on estimated requirements.

- *4-h. Two (2)-Month Contract Extension and Dollar-Limit Increase to the Term Contract for Custodial Services for Secured City Buildings as requested by Facilities Maintenance. **(Citywide)**

Facilities Maintenance and Purchasing are requesting a contract extension (through 6/30/2014) and corresponding dollar-limit increase while staff continues to evaluate Request for Proposal responses for a new contract.

Facilities Maintenance and Purchasing recommend authorizing a two-month contract extension and dollar-limit increase of \$225,000, from \$1,502,549.06 to \$1,727,549.06 with GCA Services Group (a Mesa business), based on estimated requirements.

- *4-i. Six (6)-Month Renewal of the Term Contract for Industrial Supplies for the Materials and Supply Warehouse (for Citywide Use). **(Citywide)**

This contract supplies City departments with industrial supplies, including test instruments, hand tools and vehicle maintenance supplies, shelving and storage equipment, safety equipment and materials, power tools and metalworking, pneumatics and hydraulics and pumps and plumbing and HVAC equipment.

Business Services and Purchasing recommend authorizing a six-month renewal using the City of Tucson cooperative contract with Grainger, at \$165,000, based on estimated requirements.

- *4-j. Forty (40)-Month Term Contract for Maintenance, Repair and Operations Supplies for Citywide Use. **(Citywide)**

This contract will supply City departments with maintenance, repair and operating supplies, and industrial supplies in retail stores and through the Internet from Home Depot U.S.A., Inc. (six locations in Mesa), and HD Supply Facilities Maintenance, Ltd. This contract will supplement the City's contract for Industrial Supplies with Grainger. Providing both cooperative options is advantageous to the City by allowing it to leverage and compete two nationally bid contract rates for the best prices on these products.

Business Services and Purchasing recommend authorizing a 40-month term contract using the Maricopa County cooperative contract with Home Depot U.S.A., Inc., and HD Supply Facilities Maintenance, Ltd., not to cumulatively exceed \$300,000 annually, based on estimated requirements.

- *4-k. Three (3)-Year Term Contract for New and Replacement Fire Apparatus Intercom Equipment for the Fire and Medical Department. **(Citywide)**

This contract will provide for the supply of fire apparatus intercom equipment manufactured by Setcom Corporation. Fire and Medical and Communications have determined it to be in the best interest of the City to standardize the equipment to a single manufacturer's product. The equipment manufactured by Setcom Corporation was selected as the standard brand for this effort.

Fire and Medical, Communications and Purchasing recommend awarding the contract to the lowest priced, responsive and responsible bidder, Creative Communications Sales and Rentals, Inc., at \$91,000 annually, based on estimated requirements.

- *4-l. Three (3)-Year Term Contract for Fire Hose for the Fire and Medical Department. **(Citywide)**

This contract will provide fire hose for the Mesa Fire and Medical Department to use in fighting fires, as well as for firefighter protection. These hoses will be used to replace existing fire hoses that are removed from service due to age or failure to meet National Fire Protection Agency standards during annual testing.

Fire and Medical and Purchasing recommend awarding the contract to the lowest priced, responsive and responsible bidders, L.N. Curtis & Sons, at \$60,500; and Municipal Emergency Services, Inc., at \$10,500; for the total award of \$71,000 annually, based on estimated requirements.

- *4-m. Dollar-Limit Increase for the Term Contract for Original Equipment Manufacturer (OEM) Heavy-Duty Truck Repair Services for the Fleet Services Department. **(Citywide)**

Fleet has incurred unanticipated additional costs for maintenance and repair services due to: increased Solid Waste daily service requirements; multiple engine failures; higher maintenance due to more stringent emission controls; current Solid Waste trucks remaining in service for a longer period of time waiting for replacements to be put in service; and multiple vehicles' warranties have expired.

Fleet Services and Purchasing recommend authorizing a dollar-limit increase of \$300,000 annually, with Cummins Rocky Mountain, LLC (a Mesa business), increasing the contract amount from \$267,000 to \$567,000 annually, based on estimated requirements.

- *4-n. Three (3)-Year Term Contract for Digital Bond Printing Services for the Engineering Department. **(Citywide)**

This contract will provide a printing company for the production of construction plans and other related construction drawings for Engineering.

Engineering and Purchasing recommend awarding the contract to the lowest priced, responsive and responsible bidder, Thomas Reprographics, Inc., at \$34,000 annually, based on estimated requirements.

- *4-o. Purchase of Hardware and Software for the City's Annual Server Replacement Program. **(Citywide)**

Aging servers for the City's Geographic Information Systems (GIS) will be replaced this year, as well as those that support the City's Computerized Maintenance Management System, which is currently being upgraded to a new server/web-based version. These servers also support the Police Department's continued efforts to address its aging server fleet through virtualized servers for cost savings, flexibility, manageability and faster startup time for server services.

Information Technology and Purchasing recommend authorizing the purchase using State of Arizona cooperative contracts with Insight Public Sector, Inc., at \$106,331.84, EMC Corporation, at \$30,487.78, and SHI International, Corp., at \$10,384.70, for a combined total contract award of \$147,204.32. This purchase is FY 13/14's replacement program funded by Information Technology's Lifecycle Roadmap.

- *4-p. Three (3)-Year Term Contract for 2" Backflow Preventers for the Water Resources Department. **(Citywide)**

This contract will provide backflow preventers for fire hydrant meters. These assemblies are rented to contractors for temporary construction water and dust control. Backflow preventers protect the City's water system from contamination due to backflow and back siphoning. The installation of these devices will bring the City into compliance with State and Federal backflow prevention requirements.

Water Resources and Purchasing recommend awarding the contract to the lowest priced, responsive and responsible bidder, Ewing Irrigation (a Mesa business), at \$36,100 annually, based on estimated requirements.

- *4-q. Three (3)-Year Term Contract for LED Re-lamping Services for the Transportation Department. **(Citywide)**

This contract will provide for contracted services to replace LED traffic signal lamps. LED lamps are regularly replaced as they reach the end of their service life.

An evaluation committee representing Transportation and Purchasing evaluated responses and recommends awarding the contract to the highest-scored proposal from Contractors West, Inc. (a Mesa business), at \$159,500 annually, based on estimated requirements.

- *4-r. Three (3)-Year Term Contract for Block Wall Cleaning, Painting and Minor Repair Services for the Transportation Department. **(Citywide)**

This contract will provide block wall cleaning, painting and minor repair services on an as-needed basis at a variety of locations within the City limits.

Transportation and Purchasing recommend awarding the contract to the lowest priced, responsive and responsible bidders, Hernandez Companies, Inc. (Primary) and Larkin Painting Contractors, Inc. (Secondary), not to cumulatively exceed \$50,000 annually.

- *4-s. Three (3)-Year Term Contract for Traffic Signal Maintenance Services for the Transportation Department. **(Citywide)**

This contract will provide for the installation, modification, and maintenance of the City of Mesa Intelligent Transportation System (ITS) traffic signals on an as-needed, where-needed basis. Work consists of, but is not limited to: light/signal pole, arm and head installation, trenching, boring, conduit/wire/cable installation, pull box/vault installation, barricade setup, saw cutting, et cetera.

An evaluation committee representing Transportation and Purchasing evaluated responses and recommends awarding the contract to the highest-scored proposal from Roadway Electric, LLC, at \$704,000 annually, based on estimated requirements.

- *4-t. Riverview Multi-Use Sports Facility. **(District 1)**

This is the second Guaranteed Maximum Price package (GMP No. 2) for the Riverview Multi-Use Sports Facility. The GMP No. 2 scope of work includes the remaining scope of work necessary to complete the project. This facility will be located on the northeast side of the Riverview site, which was previously the softball quad, and will be designed for the dual purpose of parking for the new Cubs' Stadium and multi-use sports fields.

The recommended total award amount is \$3,152,098.40 based on the GMP proposal of \$2,865,544.00, plus an additional \$286,554.40 (10% allowance for change orders). Funding is available in the Excise Tax Bonds and Economic Investment Fund.

- *4-u. Ratification of Emergency Cooling Tower Replacement at the Communications Building as requested by the Facilities Maintenance Department. **(Citywide)**

Facilities Maintenance recently determined the cooling towers in the Communications Building, which houses Public Safety 911 Dispatch, are not reliable. It was determined that by replacing one cooling tower as an emergency purchase, the building chiller will be operational and will mitigate the public safety risk. An additional rental unit will be used to provide redundancy until permanent repairs can be completed. The tower is currently being built and staff anticipates the tower replacement to be completed by May 9th.

Facilities Maintenance and Purchasing recommend ratifying the emergency purchase of \$38,708.73 to Daikin Applied Americas, Inc.

5. Take action on the following resolutions:

- *5-a. Approving and authorizing the City Manager to prepare, sign and submit applications to the U.S. Department of Housing and Urban Development to receive FY 2014/2015 entitlement funds under the Housing and Community Development Act of 1974 (CDBG), as amended, for City department activities approved by the City Council **(Citywide)** – Resolution No. 10419.
- *5-b. Approving and authorizing the City Manager to prepare, sign and submit applications to the U.S. Department of Housing and Urban Development to receive FY 2014/2015 entitlement funds under the Housing and Community Development Act of 1974 (CDBG), as amended, for non-profit organization activities approved by the City Council **(Citywide)** – Resolution No. 10420.
- *5-c. Approving and authorizing the City Manager to prepare, sign and submit applications to the U.S. Department of Housing and Urban Development to receive FY 2014/2015 entitlement funds under the Stewart B. McKinney Homeless Assistance Act of 1987 (ESG), as amended, for activities approved by the City Council **(Citywide)** – Resolution No. 10421.
- *5-d. Approving and authorizing the City Manager to prepare, sign and submit applications to the U.S. Department of Housing and Urban Development to receive FY 2014/2015 entitlement funds under the HOME Investment Partnerships program (HOME), as amended, for City department activities approved by the City Council **(Citywide)** – Resolution No. 10422.
- *5-e. Approving and authorizing the City Manager to prepare, sign and submit applications to the U.S. Department of Housing and Urban Development to receive FY 2014/2015 entitlement funds under the HOME Investment Partnerships program (HOME), as amended, for non-profit organization activities approved by the City Council **(Citywide)** – Resolution No. 10423.
- *5-f. Approving the FY 2014-2015 Annual Action Plan for submittal to the U.S. Department of Housing and Urban Development (HUD) and authorizing the City Manager to amend, sign and submit the Annual Action Plan for FY 2014-2015 **(Citywide)** – Resolution No. 10424.
- *5-g. Approving and authorizing the City Manager to accept federal funds in the amount of \$62,500 to purchase equipment for the Police Department's Traffic Section to enhance the Selective Traffic Enforcement Program throughout the City of Mesa. These funds are made available from the Governor's Office of Highway Safety through a Highway Safety Contract **(Citywide)** – Resolution No. 10425.
- *5-h. Extinguishing portions of a public utilities easement and ingress and egress easement located west of Ellsworth Road and north of McLellan Road within the Final Plat of Corte Bella at Mountain Bridge **(District 5)** – Resolution No. 10426.

The property owner has requested the City extinguish certain portions of a public utilities easement and an ingress and egress easement to accommodate a proposed residential subdivision. New public utility easements that better accommodate the proposed development will be dedicated by the property owner on the final plat.

- *5-i. Setting May 19, 2014 as the public hearing date to review the proposed 2014/2015 annual assessments for the Mesa Town Center Improvement District No. 228. The proposed final assessments do not include any rate increases **(District 4)** – Resolution No. 10427.

- *5-j. Calling the Primary Election for August 26, 2014 – Resolution No. 10428.

6. Introduction of the following ordinances and setting May 5, 2014 as the date of the public hearing on these ordinances:

- 6-a. (See: Items not on the Consent Agenda.)

- *6-b. **Z14-014 (District 6)** The 3600 to 5200 blocks of South Ellsworth Road (east side), the 9200 to 10800 blocks of East Elliott Road (south side), and the 3600 to 6000 blocks of the South Signal Butte Road alignment (west side) (472± acres). Located south of Elliot Road between Ellsworth Road and Signal Butte Road. This request will allow the Campus/Regional Center Land Use Group in Development Unit 5.

Staff Recommendation: Approval with Conditions

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

- 6-c. (See: Items not on the Consent Agenda.)

- *6-d. **Z14-017 (District 6)** 3143 South Power Road. Located south of Guadalupe Road on the east side of Power Road (16.3± acres). Rezone from LC and RM-4 to RSL-2.0 PAD. This request will allow the development of a single-residential subdivision.

Staff Recommendation: Approval with Conditions

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

- *6-e. **Z14-018 (District 6)** 7515 South Atwood. Located west of Ellsworth Road and north of Germann Road (1.22± acres). Site Plan Review. This request will allow the development of an industrial warehouse.

Staff Recommendation: Approval with Conditions

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

- *6-f. **Z14-019 (District 4)** 824 West Broadway Road (NWC of Broadway Road and Extension Road). Located east of Alma School Road on the north side of Broadway Road (2.2± acres). Site Plan Review and Council Use Permit for a Large Collection Facility in the LI District. This request will allow the development of a contractor's yard for the storage of building materials and recycling materials.

Staff Recommendation: Approval with Conditions

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

- *6-g. **Z14-020 (District 6)** 1010 South Crismon Road (west side). Located north of Southern Avenue on the west side of Crismon Road (1± acres). Rezone from RS-43 to OC BIZ and Site Plan Review. This request will allow the development of a medical office building.

Staff Recommendation: Approval with Conditions

P&Z Recommendation: Approval with Conditions (Vote: 6-0-1, Chair Carter abstained.)

- *6-h. **Z14-021 (District 6)** The 8200 to 8600 blocks of East Baseline Road (north side). Located on the north side of Baseline Road and the west side of the Loop 202 San Tan Freeway (52.4± acres). Rezone from LC PAD and RM-4 PAD to LC PAD, RSL-2.5 PAD and RM-4 PAD. This request will allow the development of a mixed-use community.

Staff Recommendation: Approval with Conditions

P&Z Recommendation: Approval with Conditions (Vote: 6-0-1, Chair Carter abstained.)

- *6-i. **Z14-022 (District 5)** 602 South Edgewater Drive. Located north of Southern Avenue and east of Power Road (0.5± acres). Rezone from RS-6 PAD to RS-6 PAD HL. This request will establish a Historic Landmark Overlay.

Staff Recommendation: Approval with Conditions

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

- *6-j. Modifying City utility rates, fees and charges by adopting an incentive program for Mesa utility electronic bill delivery and SurePay automatic bank draft payments. **(Citywide)**

7. Take action on the following subdivision plats:

- *7-a. "Trovita Norte Phase 1" **(District 2)** The 3600 to 3800 blocks of East Brown Road. Located on the southeast corner of North Val Vista Drive and East Brown Road. 56 RS-15 PAD lots (36.5± acres). Taylor Morrison/Arizona, Inc., owner; Mary F. Kennedy, EPS Group, Inc., surveyor.
- *7-b. "Trovita Norte Phase 2" **(District 2)** The 3800 to 4000 blocks of East Brown Road. Located east of the southeast corner of North Val Vista Drive and East Brown Road. 42 RS-15 PAD lots (19.6± acres). Taylor Morrison/Arizona, Inc., owner; Mary F. Kennedy, EPS Group, Inc., surveyor.

Items not on the Consent Agenda

- 6-a. **Z14-012 (District 2)** 6350 East Main Street. Located east of Recker Road on the north side of Main Street (0.63± acres). Rezone from LC to LI-BIZ. This request will allow the redevelopment of a commercial building. Granite Reef, Inc., owner; Lindsay Schube,

Withey Morris, PLC., applicant. (Legal Protest: $\frac{3}{4}$ vote will be required for the final action on May 5, 2014).

Staff Recommendation: Approval with Conditions

P&Z Recommendation: Approval with Conditions (Vote: 4-0, Boardmembers Clement, Hudson and Johnson absent.)

Planning Director John Wesley reported that this item was a request to rezone the current Limited Commercial (LC) Zoning District to Limited Industrial Planned Area Development (LI-PAD). He explained that the case will include an accompanying General Plan Amendment. He stated that the area has “gone through some growing pains” and noted that the applicant was considering redevelopment opportunities at this site, which would be permitted with the proposed zoning.

Mr. Wesley pointed out that the ordinance associated with this case is being introduced tonight and indicated that at the May 5, 2014 Regular Council meeting, the Council will take action on this matter. He also remarked that due to the fact that a legal protest has been filed concerning this item, it would require a super majority vote of the Council for approval. He added that introduction of the ordinance only requires a simple majority vote of the Council for approval.

In response to a question from Councilmember Richins, Mr. Wesley clarified that with the upcoming appointment of the new District 2 Councilmember, six out of seven Councilmembers voting in support of the matter would constitute a super majority.

A number of citizens submitted speaker cards expressing opposition to this case as follows:

Donald Jackson	Mesa resident
Steve Gettler	Mesa resident
Beth Hall	Mesa resident
Roger Walklin	Mesa resident
Dennis Callison	Mesa resident

The citizens offered a series of comments including, but not limited to, the following:

- The proposed development (medical marijuana dispensary) is in close proximity to a church, which provides a Sunday School for toddlers up to teenagers.
- The proposed development cannot be situated within 1,200 feet of an existing church or 500 feet of a residential area.
- The specific use for the rezoned property should have been disclosed in the letter that the applicant distributed to the residents in the surrounding area.
- Many property owners in the neighborhood have not been made aware of this case.
- The surrounding neighborhood is unsafe and “in need of some help,” especially with respect to commercial development.
- Rezoning on “a spot basis” only helps one owner and one location and often is to the detriment of the surrounding neighborhood.
- A medical marijuana business is not an appropriate use for the property.

- Although the nearby church has not obtained a Certificate of Occupancy, it has operated in that capacity for the last two years.

Lindsay Schube, an attorney with Withey Morris, P.C., addressed the Council and stated that she would respond briefly to some of the speakers' comments, but would make a more detailed presentation at the May 5th Council meeting. Her remarks included, but were not limited to, the following: that the Planning & Zoning Board (P&Z) approved the case based strictly on a land use perspective; that a medical marijuana dispensary is only one potential tenant for the property; that within two miles of the property, there are 56 vacancies with commercial zoning, but only one with industrial zoning; and that the medical marijuana dispensary would be equipped with multiple security measures, such as cameras inside and outside, in order to ensure the safety of the customers and the surrounding neighborhood.

Responding to a question from Councilmember Richins, City Attorney Debbie Spinner explained that if the full Council were present at the May 5th Council meeting, it would be necessary for six members to vote in support of the motion in order for the ordinance to be adopted. She reiterated that for the introduction of the ordinance tonight, four affirmative votes were required in order for the matter to move forward.

Mayor Finter pointed out that tonight's vote for introduction of the ordinance is to ensure that Mesa residents are aware of the case and will have the opportunity to offer their input on May 5th prior to the Council taking action on this item.

Councilmember Richins pointed out that just because a Councilmember votes to move this item forward for consideration at the May 5th meeting, does not mean that person will necessarily vote to approve the project. He assured everyone that there would be "a very robust debate" at that time.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Glover, that the Ordinance be introduced and that May 5, 2014 be set as the date of the public hearing.

Mayor Finter declared the motion carried unanimously by those present.

- 6-c. **Z14-016 (District 5)** The 5000 to 5200 blocks of East Brown Road (north side). Located at the northwest corner of Brown Road and Higley Road (76.6± acres). Rezone from AG to RSL4.5-PAD on 43.65 acres and rezone from AG to RSL2.5 on 33 acres. This request will allow the development of a single-residential subdivision.

Staff Recommendation: Approval with Conditions

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

Planning Director John Wesley reported that this item was a request to rezone the northwest corner of Higley and Brown Roads for single-family development, which would equate to 430 lots. He explained that the approximately 80-acre property was currently vacant and stated that for many years, the low-density residential use has been planned. He noted that the applicant's proposal to rezone is consistent with the General Plan and added that the development would consist of three different lot sizes.

Ed Murphy, a Mesa resident, commented that he had no objection to the single-residence development. He pointed out, however, that the property was located directly underneath the traffic pattern of the south runway at Falcon Field Airport. He stated that the Planning & Zoning Board (P&Z) recommended approval of the case with certain conditions, including the following: "Written notice be provided to future residents, and acknowledgement received that the project is within a mile(s) of Falcon Field Airport."

Mr. Murphy highlighted a document titled "Acknowledgement of Disclosure" (**See Attachment 1**), and suggested that KB Homes, the developer of the property, consider utilizing this document to more effectively disclose information regarding Falcon Field Airport. He said that such a disclosure would curtail complaints by residents who purchase homes in the area in the future.

Karen Broughton, a Mesa resident, urged the Council to postpone action on this case until such time as the P&Z Board re-examines its decision and more neighbors in the area can become involved in the process. She also suggested that the design of the homes be modified to create less density, include driveways and create sufficient parking adjacent to the respective homes. She added that she provided Mayor Finter and the Councilmembers packets that contain petitions that have been signed by the surrounding neighbors who oppose this case, as well as photos of the property in question.

Sean Lake, an attorney representing KB Homes, responded to a series of questions and comments posed by the speakers. His comments included, but were not limited to, the following: the site is located more than one mile outside of the 60 DNL (Day-Night Average Sound Level) line; that per P&Z's recommendation, three Conditions of Approval address Falcon Field Airport; that the project will not be detrimental to Falcon Field Airport; that notice of the proposed development was given to the homeowners located within 1,000 feet of the property; and that such individuals were also provided notice relative to the P&Z and City Council meetings.

Councilmember Luna reiterated that tonight was merely the introduction of the ordinance. He stated that over the next two weeks, he would anticipate that the applicant and the neighbors would have the opportunity to meet and discuss the case in greater depth.

In response to a question from Councilmember Richins, Mr. Wesley clarified that for many years, the General Plan designation for the property has been Residential. He noted, however, that the current Zoning District for the site is Agriculture (AG).

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Glover, that the Ordinance be introduced and that May 5, 2014 be set as the date of the public hearing.

Mayor Finter declared the motion carried unanimously by those present.

8. Conduct public hearings on the following proposed annexations:

- 8-a. Public Hearing prior to the release of petition for signatures for the proposed Annexation Case A14-03, located north of McLellan Road and east of Alma School Road (6.9± ac). Initiated by the property owners, Denvon and Mona Rogers and Mortgages LTO 401K Plan/G A Libling-Mark Winkleman. (**District 1**)

Mayor Finter announced that this was the time and place for a public hearing regarding the release of petition for signatures for the proposed Annexation Case A14-03.

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

- 8-b. Public Hearing prior to the release of petition for signatures for the proposed Annexation Case A14-04, located north of McLellan Road and east of Alma School Road (5.8± ac). Initiated by the property owners, Ray and Ada Ison and Mortgages LTO 401K Plan/G A Libling-Mark Winkleman. **(District 1)**

Mayor Finter announced that this was the time and place for a public hearing regarding the release of petition for signatures for the proposed Annexation Case A14-04.

Councilmember Richins commented that he looked forward to the project that will accompany the above-referenced annexation case. He stated that the applicant has been very positive in his dialogue with the neighbors and noted that infill projects, such as this case, are attracting developers to Mesa and will be part of its future as build-out occurs.

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

9. Items from citizens present.

There were no items from citizens present.


10. Adjournment.

Without objection, the Regular Council Meeting adjourned at 6:41 p.m.

ATTEST:


DEE ANN MICKELSEN, CITY CLERK




ALEX FINTER, MAYOR

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 21st day of April 2014. I further certify that the meeting was duly called and held and that a quorum was present.


DEE ANN MICKELSEN, CITY CLERK

ACKNOWLEDGMENT OF DISCLOSURE

I/we, _____, the purchasers of the residential property at _____, hereby acknowledge that we have been advised by _____, the sellers of the subject property, that it is located _____ miles from Falcon Field Airport, Mesa, AZ and is thus subject to noise pollution from aircraft arriving and departing Falcon Field. We further acknowledge that we have been advised that Falcon Field is among the ten busiest general aviation airports in the nation with more than 270,000 take-offs and landing each year and that Falcon Field is a growing facility and will see increased operations in the future.

As a result of the disclosure of this information regarding noise emanating from aircraft using Falcon Field we freely and willingly agree to relinquish all of our rights to file any noise complaints and/or law suits regarding noise and traffic at Falcon Field and/or take part in any activity of any nature that seeks to do the same.

