

CITY COUNCIL
REGULAR MEETING
October 4, 2016

The regular meeting of the City Council of the City of Apache Junction, Arizona, was held on October 4, 2016, at the Apache Junction City Council Chambers pursuant to the notice required by law.

CALL TO ORDER

Mayor Insalaco called the meeting to order at 7:00 p.m.

INVOCATION

Councilmember Wilson gave the Invocation.

PLEDGE OF ALLEGIANCE

Private Needham of the East Valley Young Marines of Arizona led the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Mayor Insalaco
Vice Mayor Barker
Councilmember Evans
Councilmember Rizzi
Councilmember Serdy
Councilmember Waldron
Councilmember Wilson

Staff Present: City Manager Bryant Powell
Assistant City Manager Matt Busby
City Clerk Kathleen Connelly
City Attorney Joel Stern
Public Safety Director Tom Kelly
Parks and Recreation Director Liz
Langenbach
Development Services Director Larry
Kirch
Economic Development Director Janine
Solley

Others Present: Public Information Officer Al Bravo
Building Official Dave Zellner

ACCEPTANCE OF CONSENT AGENDA)

) Vice Mayor Barker MOVED
THAT THE CONSENT AGENDA BE ACCEPTED AS PRESENTED; AND

THAT RESOLUTION NO. 16-29, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH SALT RIVER PIMA MARICOPA INDIAN COMMUNITY FOR PROPOSITION 202 FUNDS FOR THE INSTALLATION OF A WATER FEATURE AT FLATIRON COMMUNITY PARK, BE APPROVED; AND

THAT APPROVAL BE GIVEN FOR THE FIRST AMENDMENT TO THE CONSTRUCTION AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION AND BLOUNT CONTRACTING INC. FOR THE CONSTRUCTION OF FLATIRON COMMUNITY PARK TO EXTEND THE CONSTRUCTION PERIOD 30 DAYS FROM JANUARY 6, 2017 TO FEBRUARY 6, 2017, TO INCLUDE THE RESTROOM COMPONENT INTO THE SCOPE OF WORK AND INCREASE THE CONTRACT AMOUNT TO INCLUDE THE RESTROOM COMPONENT IN THE AMOUNT OF \$124,026.65 FOR A TOTAL OF \$950,855.55 PLUS 5% FOR CONTINGENCY IN THE AMOUNT OF \$47,542.78 FOR A TOTAL AMOUNT NOT TO EXCEED \$998,398.33; AND THAT AUTHORIZATION BE GIVEN TO THE MAYOR TO SIGN THE AMENDMENT PENDING APPROVAL AS TO FINAL FORM BY THE CITY ATTORNEY; AND

THAT RESOLUTION NO. 16-30, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE CITY OF APACHE JUNCTION TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH SUPERSTITION MOUNTAINS COMMUNITY FACILITIES DISTRICT NO. 1 FOR FINANCIAL PARTICIPATION IN A PORTION OF THE RESTROOM CONSTRUCTION COST AND RELATED SEWER SERVICES AT THE FLATIRON COMMUNITY PARK, BE APPROVED.

Councilmember Rizzi SECONDED

THE MOTION.

VOTE: Unanimous.

The motion carried.

AWARDS, PRESENTATIONS AND PROCLAMATIONS

Mayor Insalaco read a proclamation designating November 4-9, 2016 as Kids Day on Broadway and presented it to Zao Theatre Director Mickey Bryce and members of the 2nd Continental Congress cast.

Vice Mayor Barker read a proclamation designating October 2016 as Domestic Violence Awareness Month and presented it to Community Alliance Against Family Abuse Executive Director Dorian Townsend who thanked the city for its support and the strong cooperation of the police department.

Mayor Insalaco read a proclamation designating October 23-31, 2016 as Red Ribbon Week and presented it to Private Needham of the East Valley Young Marines of Arizona.

ANNOUNCEMENT OF CURRENT EVENTS

Councilmember Wilson commented on the passing of Billy Wax who was very active in volunteering in the community, especially for equine assistance.

Councilmember Waldron commented this Thursday he will be attending the Pinal County Town Hall in Eloy with the focus on transportation.

Vice Mayor Barker invited everyone to the domestic violence event at city hall at 6 p.m. on Thursday.

CITY MANAGER'S REPORT

City Manager Bryant Powell commented on the domestic violence supporting efforts by the city and a neighborhood open house being put on by Republic Services, the United Way Campaign Kickoff, and an award to Apache Junction for being the largest municipal giver.

Ms. Andrea Chisolm, Board Chair of the Apache Junction Chamber of Commerce, gave a presentation on the first quarter report on the Visitor Information Center.

PUBLIC HEARINGS

APPLICATION FOR A NEW LICENSE,

LIMITED LIABILITY COMPANY, SERIES
12 LIQUOR LICENSE FOR CHICAGO'S #1
GYROS

)

) City Clerk Kathleen

Connelly briefed the council on the item.

Mayor Insalaco requested the
applicant address the council.

Mr. Joe Benjamin, Chicago's
#1 Gyros, Ironwood and Broadway, Apache Junction, addressed the
council. He stated he started building the business in 2007.
His customers have been asking for liquor. He has been having a
problem with the development services department. He thinks he
has applied for a permit. He thought he could do some things to
open the place for everyone to come in and enjoy the atmosphere.
He tore the wall down and did not know he had to get a permit to
do it first and get it approved. That is his problem.

Vice Mayor Barker asked if he
got the permit.

Mr. Joe Benjamin stated he
applied for the permit.

Vice Mayor Barker asked what
the status is of the permit.

City Manager Bryant Powell
stated they are working with staff. His understanding is he is
working to get the permit completed.

Mr. Joe Benjamin stated they
want him to have an engineering or architect document.

City Manager Bryant Powell
stated Elan from the economic development division has been
working closely with him to help him work through the process.
He is committed to doing it but he does not exactly know what it
means, what the process is or what the costs related to it might
be. He believes that if he cannot do it then he might not go
forward.

Mr. Joe Benjamin stated he thought it was a simple thing to do, that it was a minor thing. But there are a lot of things that come after that.

City Manager Bryant Powell stated this is a liquor license. If they do approve the liquor license, he would still have to go through the process of getting a building permit before he could finish. That is the question at this point.

Councilmember Waldron commented that would be to extend the premises. He asked if he could do it in the original portion if they approved the liquor license.

City Clerk Kathleen Connelly stated he could not. It would be based upon the diagram that they have been given, which is in the area to the west of the original.

Development Services Director Larry Kirch stated they are working with the owner of the property to get the proper permits in place. He has been asked to provide engineer or architect drawings. In Arizona a commercial business owner cannot do the work themselves. They have to have a licensed contractor because there may be structural components to that. The drawings have not been submitted yet.

City Manager Bryant Powell stated the question is what happens if the liquor license gets approved tonight and he finds out after going ahead that he does not want to do this and does not get the permits.

Development Services Director Larry Kirch stated he does not know what happens with the liquor license. This is a first time application to allow liquor there. If the council and state approve it but he does not have the building plans he could not start using it to start serving liquor until he essentially got the permits and got all the inspections and all that.

Mayor Insalaco asked if this was getting the cart before the horse.

Development Services Director Larry Kirch stated it is up to the council. He does not know what their options are. They could refer it for another few weeks to see if that process can get going so they can get a proper permit applied for and then do the inspections and have the project move forward.

Mayor Insalaco asked if he thought it could be taken care of in two weeks.

Development Services Director Larry Kirch stated he does not know where the gentleman is at with having the plans drawn up. That is what they need. They need plans drawn up and submitted that have a stamp on them.

City Clerk Kathleen Connelly stated there are time frames under which the council has to take some kind of action. In this instance, pushing it to this date went beyond that time frame and we had to notify the state of the extension. There is a time limit to the extension.

Vice Mayor Barker asked what the time limit is on that.

City Clerk Kathleen Connelly stated she thinks it is another thirty days.

Vice Mayor Barker asked if she was saying we might have another thirty days.

City Clerk Kathleen Connelly stated she is not saying that at all. She wished this had not been continued the last time. She does not know.

Vice Mayor Barker commented she does not see a problem with it unless he is not going to do it. If he is not going to do it then she sees a problem.

City Attorney Joel Stern stated he thinks the city clerk is correct. They pushed it a

little bit. If they extend it that could be a problem. They might ask what they are recommending. The problem is they will not have a recommendation so it will be deemed basically passed and they will then pass it. He does not think there is any harm in voting tonight because he will have to come up with the cost. He asked them to put the diagram back up and stated this is the diagram that is in the packet.

Councilmember Evans asked if the work has already been done. He just did not have the permits.

City Attorney Joel Stern stated the building official could answer that question but he believes the issue is the cost.

Building Official Dave Zellner stated he did some work in improvements and expanded the space. That is what they are trying to resolve now.

Councilmember Evans commented that has all been completed.

Building Official Dave Zellner stated it appears so. They have not done any official inspection or anything like that. He could restore it back to his original space and could probably amend his coverage area for the license. He does not think it would prevent him from serving liquor. There are two different things. One is the area he is serving and the other is resolving the permit issues. They could approve the liquor license and it would be up to him if he wants to serve liquor in a bigger space or smaller space. He could choose to do the smaller space and then restore back to where he was. He could go to the state to amend the application.

City Clerk Kathleen Connelly stated the state has on file this application with this particular diagram. If he is going to change the service area he has to submit a different diagram and start the process all over again. She would think they would not charge another fee but she cannot answer that for them.

Mayor Insalaco commented the hold up is getting an architect or somebody to approve the plan.

Building Official Dave Zellner stated that is correct. State law requires two things. State law requires that when you do work and change or alter something like this, based on the square footage and occupant load, a registered professional has to prepare the plan. That is one piece. The second piece is that most of the work that is done that is related to that by law must be done by a licensed contractor. He must get somebody to sign on and do their own inspection before they come to the city and the city will issue a permit in the name of that contractor. The inspection will then be done. It will tie that contractor and designer to that permit. These two things are not in the city code; they are in state law. State law dictates to us that those are the base requirements.

City Manager Bryant Powell stated that is why they have a business advocate function and why Elan is working very closely to help with all the issues, why this happened and the process. From his understanding, the applicant is working to complete all city codes.

Vice Mayor Barker asked if Mr. Benjamin understands what he needs to do.

Building Official Dave Zellner stated they asked for Elan and the economic development department to get involved to act as an intermediary to assist him. He thinks they have helped. The hard part for Mr. Benjamin to understand is these are some expenses he did not account for.

Mayor Insalaco commented it is the expenses that are holding him back basically.

Building Official Dave Zellner stated they are working that out and coming to terms with it. It does impact the license but they are not trying to prevent him from doing that or moving forward. They are trying to resolve the scenarios with the building permit.

Councilmember Serdy asked if there is any way he can go with someone who is not a full-fledged architect, like when instead of going with a lawyer you go with a paralegal. He asked if there is any service that is like an architect but without the exorbitant costs.

Building Official Dave Zellner stated not that he has been able to find. The Board of Technical Registration deals with licensing for architects and engineers. They have a section that deals with and states what a non-registrant can do. That is limited to 3,000 square feet, an occupant load of 20 persons and certain structural things. This project does not fall within the scope for a non-registrant. They looked at that but there is no provision in the law besides that.

Councilmember Serdy asked if the advocate is trying to help with that.

City Manager Bryant Powell stated he is trying to bring different architects to the surface, maybe go out and bid to get the best price and assist with an contractor.

Vice Mayor Barker asked if there is such a thing as a pro bono architect.

City Manager Bryant Powell stated there could be, like a college student.

Vice Mayor Barker commented maybe he would do it pro bono.

City Manager Bryant Powell stated it needs to be a licensed architect and registered contractor.

Councilmember Evans commented at the last meeting they had a safety issue with where one of the exits was for the number of people. She asked if that had been resolved.

Building Official Dave

Zellner stated that is going to be one of those things. One of the things they have let Elan know is that once he has an architect selected they will want to meet with him and figure those things out. He did some further research. There are no rear exits from this space or building. Those are the only two exits. They will have to look at it. There are some provisions in the building code for existing buildings where they get modified like this. There are some provisions and scoring and a way to evaluate the building that they may be able to use to work through that issue without saying he cannot do it because of those exits. There may be some extra signage or something. There is a way to address it and work through it. That is part of what that designer will be doing. Part of the process will be to score and evaluate that stuff. The biggest thing is they need to document it, evaluate it, and make the provisions or whatever to protect people so that if something happens everybody is covered.

Councilmember Serdy asked why the patio exit does not count. If it is an emergency they can obviously escape out there.

Building Official Dave

Zellner stated it may. That was part of what he went back to look at. He remembered the fence being taller. There may be a provision where they can look at putting a gate on that area which would allow that to be an exit. Right now there is no gate. Technically people could fall over the fence if they needed to get out but the preference would be that they be able to move away from the building reasonably without having to climb over stuff. That may be one of the answers. The building code provides different areas of getting the information documented and sorting it out. The architect has different paths to compliance he can take and that is what they will work with him on.

Vice Mayor Barker thanked him for working with this applicant and looking for alternatives. She appreciated that.

Mayor Insalaco opened the public hearing on the item. There being no one wishing to

speaking, he closed the public hearing and reopened the item to council discussion.

Councilmember Serdy commented he wanted to encourage everyone to go in and look at what he has done. They have made the bar by hand. We need more restaurants like this that thrive. It has the kind of atmosphere that Gilbert is getting and we should try to do everything we can to make this happen. The food is awesome, too.

Councilmember Waldron agreed. Hopefully, if they approve this, things will work themselves out.

Mayor Insalaco closed the discussion with no further comments and called for a motion.

Councilmember Waldron MOVED THAT THE APPLICATION FOR A NEW LICENSE, LIMITED LIABILITY COMPANY, SERIES 12 LIQUOR LICENSE FOR CHICAGO'S #1 GYROS, SUBMITTED BY AMY NATIONS, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Barker SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

MOTION FOR RECONSIDERATION BY
COUNCILMEMBER RIZZI ON THE CITY
COUNCIL'S SEPTEMBER 20, 2016
NEGATIVE RECOMMENDATION TO THE
ARIZONA DEPARTMENT OF LIQUOR
LICENSES AND CONTROL FOR THE
HITCHING POST'S APPLICATION FOR
A PERMANENT EXTENSION OF PREMISES)

) Councilmember Rizzi commented at the last meeting they had a lot of discussion in regards to gates, parking and vehicles leaving and traveling through possible events, cars and people. After they made their vote she was made aware of information that had she been aware

of at the time of the vote, her vote would have been different. She felt compelled to come back to the council and share the information. There is a little error in their map. It did not show a gate. She felt that not having all the information or possibly inaccurate information may have affected how some other council members may have voted. She felt it was important to make the other council members aware of this information and see if they might want to go back and look at it and revote. She has the map they were presented with. Larry gave a great presentation at a long meeting. They had a lot of questions in regards to traffic flow, gates, parking and where traffic flow might be heading. She does not have a way to share a map.

City Manager Bryant Powell
stated she might want to show a partial map.

Councilmember Rizzi commented
she could come down and point it out.

Vice Mayor Barker asked her
to orient them first with the map.

Councilmember Rizzi commented
there is no indication of a gate in the portion she was pointing out. They had all talked about traffic flow from a certain parking area she pointed out during an event. The event would be up in the front, another area she pointed out is storage, and there is more storage on the back side. There was concern about traffic flow with vehicles possibly coming through the event where people would be parked and walking. She had asked a question that she did not see a gate there on the map. She had asked if there was one there on the backside. There are so many gates on this large property it is possible the question was misunderstood. The answer to her question was no. That is what she based her vote on. She is a bus driver and she will err on the side of caution any time there might be a safety concern. She felt that a few of them had a concern with safety in that traffic might be directed this way. While there is a possibility that traffic could be directed this way, the gate is not listed on the map. Once she realized that it changed the ballgame for her. She felt obligated to bring it to their attention and say there was information they all did not have. She knows it would have changed her vote but she does not know

if anyone else's vote would have been changed. She felt it was important enough to bring it to everybody's attention. There is another opportunity to have traffic flow away from the cars and away from pedestrians.

Vice Mayor Barker asked her to move the map over so they can see the event area. She asked if there is a gate off of the event area to Highway 88.

Councilmember Rizzi commented she does not have the answer to that question. Her only question was if there was a gate on the back end. The question may have been misunderstood. The answer to her question was no and that was what she based her decision on, the not having a gate here.

Vice Mayor Barker commented she does not know why she brought that up.

Councilmember Rizzi commented she thought it was important to bring it to the council. She was just letting them know that they had more information that they did not have that night.

Councilmember Evans commented she had no confusion about it. Her problem is not whether there was a gate there or not. Her problem with the permanent extension of premises would be whether there was an event there or not an event there. It is a safety issue. That parking lot goes the whole way to the easement along Highway 88. As representing the city and not representing friendships, not representing anything except for safety and the liability issues that the city would have, approving a liquor license all the way to Highway 88 is insane. That is just the way she feels about it. The confusion comes with special events and that is when it would be closed off. But the problem is it is not a special event liquor license. It is a permanent liquor license. So no matter what is going on there, they can still have liquor out in the parking lot legally. She asked what would happen to the city's liability if the council would approve this, if something happened and the city turned it down and the liquor control board said they do not care and issued this just like they did around the bull ring. She asked if our liability is lessened

because we said no and the liquor control board said they did not care.

City Attorney Joel Stern stated he does not want to educate potential plaintiffs, however, anyone can file a lawsuit on anything and he could get into more detail in an executive session. Basically there could be a lawsuit. He is not saying it would have merit.

Councilmember Evans asked if they have ever permanently allowed people to drink in an open parking lot anywhere else in the city.

City Clerk Kathleen Connelly stated they have not.

City Attorney Joel Stern stated he has been here nineteen years and he cannot remember an event like that. Maybe a special event but not a permanent one in a parking lot.

Councilmember Waldron commented they had a request for a temporary special event liquor license for Jake-O-Mine's because they wanted to use the parking lot and we told them no because we did not want people drinking in the parking lot and driving away. We limited it to their sidewalk area. He agrees with Councilmember Evans. The issue is not traffic to him. The issue is a permanent extension of a liquor license into an area that can be used year round. That is his concern.

Councilmember Rizzi commented for her that was the issue because this event has gates to close it off, and just like the bull riding ring the whole place is right off of State Route 88. That was not the issue for her. The issue was, and there was quite a bit of discussion, about the possibility of traffic flow. The whole reason she is asking to bring it back for reconsideration is because there was a good bit of discussion about the traffic flow from the parking area, it looks like on the northeast side, flowing through pedestrians. For her, that is what created a safety issue and once she realized there was another option that was not listed on the map, that was her reason for asking for reconsideration.

Vice Mayor Barker commented she understands what she is saying because the police report actually was the thing they did so much talking about with the flow of traffic and the fact that the gate is small, which it is not, and a few other things. She has to agree that this is a parking lot. It has a gate and that gate is open when it is used as a parking lot. But if there is a permanent extension of liquor license alcohol is legal in that parking lot with the gate open and with people driving in and out of that gate that goes to State Route 88. That is her problem.

Mayor Insalaco opened the public hearing on the item.

Mr. James Johnson, 2319 N. Cortez, Apache Junction, addressed the council. He stated he has lived there for 16 years and never seen anyone go in and out of that gate. It is almost impossible to have access to it. He does not feel it comes into play at all. He thanked the council for voting against the extension previously. He feels the Hitching Post is nothing more than a highway sideshow.

Ms. Krista Burdette, 1639 W. Mockingbird, Apache Junction, addressed the council. She stated she is totally against extending the liquor into the parking lot area. As a business owner one has responsibilities to uphold themselves in an upright manner. One is responsible for their employees and their actions. She knows someone was assaulted in the back parking lot area in May 2015 that caused permanent damage to that person by a Hitching Post employee who was drinking while serving alcohol. There are many witnesses to this. She assaulted this person with multiple people in the parking lot but they barricaded the person in a vehicle. She went inside the Hitching Post to get a taser, went out to the parking while the person was waiting for a cab, which the person also took there as well, to obtain another member to give a safe ride home so that they were not drinking and driving. When this person arrived there were people stumbling around drunk. They were found to have been served way over the limit by the bartender who was also violating liquor license laws by serving alcohol while drinking. It is of great concern to her to allow this extension. Being a business owner is a privilege, it is not earned or given.

Ms. Nancy Burgess, 250 S. Tomahawk, Apache Junction, addressed the council. She stated the whole point of this discussion has to do with drinking in a parking lot. It is not traffic flow or anything else. We are not here to debate if someone was beat or not. We are here to discuss drinking in a parking lot. Please keep it to that and please vote no.

Ms. Carol Bailey, 2420 W. 5th Avenue #43, Apache Junction, addressed the council. She stated she is a friend of Howard Hines who lives about a mile from Mo's place of business. The problem is not Mo having a kind and generous soul. It is the noise. They cannot enjoy the outside because he is infringing on their space. She is up at 3 a.m. to clean her house and bake for various organizations but she does not run her vacuum cleaner until after 8 a.m. so as not to disturb her neighbors and infringe on their space and make them lose sleep. She asked Mo to turn the volume down and asked why it has to be so loud. It was a hard year for her when she recovered from breast cancer and she cannot imagine how difficult it was for the woman recovering from cancer surgery where the noise was so loud it rattled the windows, or having to insulate her house because she lives across from his business. The kids from the youth group from Desert Chapel United Methodist Church love to come and enjoy the bull riding. That is wonderful because there is nothing for the teenagers to do here. Now that Food City is gone she is wishing someone would put in a small movie theater or a bowling lane. They are insulated so you do not hear them on the other side. There used to be a non-alcoholic place in Phoenix when her kids were young. She asked for quieter events that are family-oriented. Parents and children can bring in a lot of money. They would not be fighting Mo if he were not infringing on their space with his noise.

Mr. Justin Agudio, 4750 N. Gold Drive, Apache Junction, addressed the council. He is the head of security at the Hitching Post. They are not here for noise or anything else but the traffic flow. Things like assaults happen. The police become involved and he takes care of it. They are here tonight to talk about what was said about a gate. He pointed out the various gates on the property on a map on the overhead projector. There is a gate in the back corner. It has

17' walls around it. There have been two security gates and they have just added a third that is about 6' tall. They are saying it is a parking lot and he understands someone can go out there. It is his job to make sure they do not. Monday, Tuesday, Wednesday, Friday and Sunday they will not see anyone drinking in the bull riding area. That is because he does his job right. They are not allowed in there unless they have events. He asked why they could not have a permanent extension. They should let him police his job that he has been doing for a year now. Let them have it to make it easier on them. He understands their concerns as they are right on a highway. The whole building is right on a highway. It is there. People can complain all they want about the noise, but they are there. They are not going anywhere. Either come and join them or they can hate them. They are always welcome to come down, they do not care. Come and have a good time. He requested they bring this back to the discussion of traffic flow. They cannot really discuss the fact of it being closed, they have gates and stuff like that, because it was already voted on. They want to bring it back to show that they have proper traffic. That gate is actually a huge gate. He maintains that storage lot. He runs the security and does all the maintenance there seven days a week. He is asking they please bring it back so that they can discuss the traffic and other situations that were not brought up at the time at a later date. When it is open it is a parking lot. When it is closed, it is his job to make sure everybody in there is safe. They also have other people.

Mr. Jim Duncan, 2745 E. Smoketree, Apache Junction, addressed the council. He stated doing something that is right is not a negative. The recommendation of the city council to deny the permanent extension of premises into a parking lot will not have a negative impact on the Hitching Post. This is not about hurting a business or implying a negative connotation to a business. This is about doing what is right by the laws of the city and the state. This is the local governing body fulfilling the duty assigned by the state to determine whether public convenience required in the best interest of the community will be substantially served. There may be a lot of people here at this public forum that are supporters and would like the allowing of the Hitching Post to serve alcohol in a business parking lot. He asked how many of those residents are within one mile of that

business. When a liquor license is issued by the state they require that the petitions and testimony from individuals who favor or oppose should reside in, own or lease property within one mile of the proposed premises. His property is less than a half mile and he is a concerned resident. He will be affected every day by this decision. Tonight he is a little confused as to why this is occurring. He understands there might be some councilmember concerned about the wellbeing of the Hitching Post, but why is the Hitching Post requesting a liquor license permanent extension of premises before the area has even been approved by the city council. It is simply a parking lot. There seems to be some gray area around the Hitching Post's current zoning and land usage from which he is totally confused about. He cannot find anywhere in the city zoning code. Zoning in the B-1 district requires a conditional use permit for the appropriate land use for these specific types. On page 46 of the city code you will find spectator sports facilities, private recreational facilities outdoors, private outdoor music events, and on page 47 of the city code restaurants, bars, clubs with amplified outdoor music. There is no zoning district in the city code that allows what the Hitching Post is doing today without a conditional use permit. He respects the zoning code and hopes it will protect his residential rights of having a safe and peaceful environment to live. Please do not remove the rights of the residents that are protected by the laws. By approving to reconsider the denial the city council is admitting maybe something was wrong or maybe there was something they missed which is simply not the case. It was very clear that a permanent extension of a liquor license into a business parking lot is simply not the right thing to do. He pleaded with the council to vote no on the motion to reconsider and remember the facts previously stated at the city council meeting on September 20. State law does not allow a parking lot to be used for an extension of premises. The Hitching Post does not have an event area approved to be a part of its current business.

Mr. David Bowling, 1310 N. Starr, Apache Junction, addressed the council. He stated he wanted to speak briefly on whether North Cortez was designated as a commercial route so that trucks could go out that way if they wanted to without violating the law. He commended the council for seeing the legality that they have all expressed so far and that they made in the ruling at the September 20

meeting. It is a tough decision but the only legal decision they could have made. What was not asked of the council by the applicant Mo was to make known to him that his request did not follow proper procedure in the big picture of the future plans intended by the Hitching Post. The procedure is the same process that any business owner in Apache Junction would have to abide by in order to change the fundamental operation of their business - a development agreement or an amendment do it, including paying the fees associated with it, a conditional or administrative use permit if mandated by the city code for the intended use of the property and once those things are in place he can apply for an extension of premises if it applies to a valid liquor license. In this case, visiting the request for an extension of premises has no legally defined area into which he could be approved because it has not become part of his development agreement. A conditional use permit has not been approved that is probably required for his intended use. It is the very definition of a cart before the horse and something that did not seem lost on Vice Mayor Barker when she alluded to it at the August 16 council meeting. He has faith that the city council is a good one and will make the correct decision to protect all Apache Junction citizens, business and residential property owners alike.

Mr. Howard Hines, 1774 N. Starr, Apache Junction, addressed the council. He stated he is approximately one mile from the intersection of Cortez, Tomahawk and North Apache Trail. He has lived here for 27 years and liked the quietness of the surroundings. He does not like excessive noise from loudspeakers and anything else that makes a lot of noise. He is against breaking or bending rules and that is what this meeting is all about. Our country was founded on the principle of ruling by majority. There are also ways of punishing those who do not follow the rules. There are plenty of rules in place; we just need to enforce them. We have a person who has already broken some of the rules of society and is attempting to break more. If he broke the rules as Mo has done, he would be in jail or heavily fined. Maybe they should hit him in the wallet where it really hurts.

Mayor Insalaco commented he wanted to remind everyone that this hearing has to do with an extension of premises in the parking lot. So far as the noise

and everything else that is moot right now. He asked if there was anyone else. The only person requesting to speak had already spoken during this public hearing. He closed the public hearing and reopened the item to council discussion.

Councilmember Rizzi commented she wanted to respond to a comment that was made on the size of the back gate. It was brought to her attention by her husband who has done tires for people back there at that gate. He had mentioned that if she had asked him, he would have been able to tell her there was a gate back there. The day after the meeting her husband took her to the back side and they looked at the gate. The gate is actually wide enough for two U-Haul trucks side by side to get through. There is plenty of space for the gate. As far as it not being a wide enough gate or an appropriate gate, the size of the gate is irrelevant. The gate is plenty large enough and appropriate enough for the storage vehicles to exit from there. She has a question for the city attorney but she thinks she already knows the answer. She wanted to ask it for clarification. She asked if the council is actually making a recommendation to the state and the state has the final decision.

City Attorney Joel Stern
stated that is correct.

City Clerk Kathleen Connelly
stated she wanted to clarify that. On the face of this particular application, which they have in their packet, it says obtain approval from local governing board before submitting to the department of liquor.

Councilmember Rizzi commented we are making a recommendation. We are not the final decision by any means. Our recommendation is forwarded to the state, the state either gives a stamp of approval or whatever along with our recommendation. The bottom line is the state has the final decision. To her knowledge, the vice mayor and mayor have alluded to noise issues. There have been no noise violations. We are not here about noise. The only reason we are here tonight is because after the meeting, after they had voted, there was new information brought to her attention that was not presented at that meeting. She felt it was important to share

that with the other councilmembers. She does not know if that information they did not have at that time would change how they voted. It may and it may not. That is the only reason she brought this here.

City Attorney Joel Stern stated he just has a procedural thing. If there is a vote and second, it would be to reconsider the matter or not to. If that passes, then there would be another motion to set the date for the new hearing. There would be another hearing where they would basically start all over. They would redo the hearing they did in September.

Vice Mayor Barker asked if he knew what the time limit effect is as we are already over on this one.

City Clerk Kathleen Connelly stated this one is different. An extension of premises start with the city council. Until it is forwarded to the state there is no time frame.

City Attorney Joel Stern stated if it fails, it fails.

Vice Mayor Barker commented she appreciated Councilmember Rizzi bringing this to their attention, however, that was not her problem. She understands that it was a problem for some but not for her. What they are there for, Justin, is to reconsider a permanent extension of premises. That is what the agenda item says. Councilmember Rizzi was kind enough to bring us additional information but what we are here for is to reconsider that extension. He may not always be there. He has only been there a year. She asked what about five years from now. She thinks that is something to consider. She does not want to set a precedent. She feels very strongly that if in fact we were to determine to go ahead and reconsider this which sort of alludes to the fact that it would probably pass, she feels that the passage of this in the future would set a precedent for any restaurant around. They could then say they would like to have this in their parking lot, too, and their parking lot even on State Route 88 or anywhere, it is much better situated. I like the events Mo has and she is sorry

for those of them that are unhappy about the noise, but she likes them. And she does not want to see him not have them. He can have them with a temporary liquor permit for each event he has. This does not stop that. If this does not go forward it does not stop his ability to have these events. That is not the reason that anyone is voting against it as far as she knows.

Councilmember Wilson commented the reason why he voted no the last time was strictly because it was making this parking lot area a permanent area for alcohol to be served. He also agrees they can have the temporary permits for this area and have events. He has a problem with parking and being in an area where it is a permanent alcohol area. That is why he voted no last time, not because of the traffic going through the parking lot on the northeast side.

Councilmember Serdy commented the way he understands it, a lot of people are talking about what is not even proposed here. They are just talking about whether or not they are going to talk about it again. That is what the vote is going to be. What he sees is a completely enclosed area there. It is like Chase Field. It is a baseball field. But they could easily turn it into a football field. They will have mud bogs there. They will put in mountains and have motocross. It is not just a baseball field just like this is not just a parking lot. Once those gates get closed, it is no longer a parking lot. It is then an extension of premises is the way he interprets it, which is why he voted to allow it. When it gets sealed off, it becomes an extension of premises. It is no longer a parking lot, just like Chase Field is no longer a baseball field when they have motocross there.

Vice Mayor Barker commented if they suggest to the state that we would like to see the permanent extension of premises, it is there twenty-four hours a day, seven days a week, 365 days a year. It does not depend on the gate.

Councilmember Serdy commented but they do not always have motocross at Chase Field. They shift it into that, which is what Mo has proposed.

Vice Mayor Barker commented that is not the point. The point she was trying to make, she does not know about anyone else, is this is a parking lot that will be open for parking when he does not have events. It will still, at that point, be legal to have alcohol in the parking lot. Even with the gate open.

Councilmember Serdy commented but they said they are not going to do that. They are going to seal this off and have special events there. They are not going to drink in the parking lot. He was just making those points. It had nothing to do with noise or rodeo. He thinks they are voting whether or not to discuss it further.

Councilmember Wilson asked if they can ask Mo a question.

Mayor Insalaco commented he closed the public hearing. He asked if they would have to reopen it again.

City Attorney Joel Stern stated if they want to open the public hearing again they can.

Councilmember Rizzi commented she thinks there is one discrepancy. It was her understanding that the area was going to be for events and no longer for parking. Because of the size of the property, they have so much parking. Maybe that is where some of the confusion comes in as well. She was under the understanding it was strictly going to be an event area and not used for parking any more. They would have events and close it off.

Vice Mayor Barker commented that is not what he said when he was up here. He said that on the day of the event the Hitching Post would be closed. They will open the fence along State Route 88 and it would not be a parking lot at that time. The event area would be closed and no parking would be allowed. There would be no alcohol beyond this point signs posted before the event. They would open the event area gate after the event for public parking. That is what he wrote to us.

Councilmember Evans asked if the parking lot was part of the development agreement for this. He said it would be closed off and the Hitching Post would be shut down except for the people there for the special event. But when it is open that parking is part of the development agreement.

City Attorney Joel Stern stated that is correct. If they change the use of the parking lot then the development agreement must be amended. There must also be a conditional use permit if it is a permanent situation.

Councilmember Evans commented the gate seems closed only for special events. Because it is part of the development agreement, it must be open and available for parking.

City Attorney Joel Stern stated that is correct.

Mayor Insalaco commented he was not going to say anything but now he will. The city for a long time had a good reputation of being clean with no good old boy stuff. To rescind this motion, he feels, is not whether they have liquor there or not. He thinks it is payback to the contributions that were made during the election. This is my feeling. And he feels that if this does continue now and it continues later on, people are going to suffer. We are here to protect the citizens of Apache Junction. We are here for business people but our main thing is to protect and serve the public, the residents of this city. He does not want to go back to the good old boys and he hates to see this council be under the thumb of special interest groups. He called for a motion.

Councilmember Rizzi MOVED
THAT WE RECONSIDER THE CITY COUNCIL SEPTEMBER 20, 2016
RECOMMENDATION OF DENIAL TO THE ARIZONA DEPARTMENT OF LIQUOR
LICENSES AND CONTROL FOR THE HITCHING POST'S APPLICATION FOR A
PERMANENT EXTENSION OF PREMISES AS 2341 NORTH APACHE TRAIL BE
APPROVED.

Councilmember Serdy SECONDED
THE MOTION.

VOTE: 2-5 (Mayor Insalaco, Vice Mayor Barker, Councilmember Evans, Councilmember Waldron and Councilmember Wilson voted in opposition.)

(During the vote Councilmember Wilson commented to the mayor that he did a lot to try to change his vote but he would still vote no.)

The motion failed.

City Clerk Kathleen Connelly asked if they still need to do the last motion on the page for denial of the reconsideration.

City Attorney Joel Stern stated they do not because it has already been denied. It goes back to the September vote.

OLD BUSINESS

None.

NEW BUSINESS

ANNUAL APPOINTMENTS/REAPPOINTMENTS
TO THE CONSTRUCTION CODE BOARD OF
APPEALS, HEALTH AND HUMAN SERVICES
COMMISSION, INDUSTRIAL DEVELOPMENT
AUTHORITY, MUNICIPAL PROPERTY
CORPORATION AND PUBLIC SAFETY
PERSONNEL RETIREMENT BOARD)

) Mayor Insalaco called for
a motion for the Construction Code Board of Appeals.

Councilmember Waldron MOVED
THAT DALLAS DEWEY BE REAPPOINTED TO THE CONSTRUCTION CODE BOARD
OF APPEALS IN THE CATEGORY OF CONTRACTOR OTHER THAN GENERAL
CONTRACTOR FOR A TERM TO EXPIRE OCTOBER 31, 2018.

Councilmember Evans SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

Councilmember Waldron MOVED
THAT KEN WRIGHT BE REAPPOINTED TO THE CONSTRUCTION CODE BOARD OF
APPEALS IN THE CATEGORY OF LAY PERSON FOR A TERM TO EXPIRE
OCTOBER 31, 2018.

Councilmember Rizzi SECONDED
THE MOTION.

VOTE: 6-1 (Vice Mayor Barker voted in opposition.)

The motion carried.

Mayor Insalaco called for a
motion for the Health and Human Services Commission.

Vice Mayor Barker MOVED THAT
MARY ERICKSON BE APPOINTED TO THE HEALTH AND HUMAN SERVICES
COMMISSION FOR A TERM TO EXPIRE OCTOBER 31, 2019.

Councilmember Waldron
SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

Mayor Insalaco called for a
motion for the Industrial Development Authority.

Councilmember Evans MOVED
THAT LUCIANO BUZZIN BE REAPPOINTED TO THE INDUSTRIAL DEVELOPMENT
AUTHORITY FOR A TERM TO EXPIRE OCTOBER 31, 2022.

Councilmember Waldron
SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

Councilmember Evans MOVED
THAT HARVEY CLARK BE REAPPOINTED TO THE INDUSTRIAL DEVELOPMENT
AUTHORITY FOR A TERM TO EXPIRE OCTOBER 31, 2022.

Councilmember Waldron
SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

Mayor Insalaco called for a
motion for the Municipal Property Corporation.

Councilmember Waldron MOVED
THAT ED BARKER BE REAPPOINTED TO THE MUNICIPAL PROPERTY
CORPORATION FOR A TERM TO EXPIRE OCTOBER 31, 2019.

Councilmember Evans SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

Councilmember Waldron MOVED
THAT JODENE WEETER BE REAPPOINTED TO THE MUNICIPAL PROPERTY
CORPORATION FOR A TERM TO EXPIRE OCTOBER 31, 2019.

Councilmember Evans SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

Mayor Insalaco called for a
motion for the Public Safety Personnel Retirement Board. There
are two positions.

Councilmember Evans MOVED
THAT WILLIE HOWARD BE APPOINTED TO THE PUBLIC SAFETY PERSONNEL

RETIREMENT BOARD IN THE POSITION OF LAY PERSON FOR A TERM TO EXPIRE OCTOBER 31, 2020.

Councilmember Rizzi SECONDED
THE MOTION.

Mayor Insalaco asked if Paul Newman has to be a separate vote.

City Clerk Kathleen Connelly stated they can make it one vote because you have no choice, unlike the first one.

Councilmember Evans ALSO
MOVED THAT PAUL NEWMAN BE REAPPOINTED TO THE PUBLIC SAFETY PERSONNEL RETIREMENT BOARD IN THE POSITION OF POLICE DEPARTMENT REPRESENTATIVE FOR A TERM TO EXPIRE OCTOBER 31, 2020.

Councilmember Rizzi SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

DIRECTION TO STAFF

PROPOSED CHANGES TO THE APACHE
JUNCTION PERSONNEL RULES 2016)
) City Attorney Joel Stern
briefed the council on the item.

Mayor Insalaco called for a
motion.

Councilmember Waldron MOVED
THAT THE FOLLOWING DIRECTION BE GIVEN TO STAFF REGARDING
PROPOSED CHANGES TO CITY OF APACHE JUNCTION PERSONNEL RULES
2016: THAT THE CITY ATTORNEY COME BACK WITH AN ORDINANCE AND A
RESOLUTION ON OCTOBER 18, 2016.

Councilmember Wilson SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

PROPOSED REVISIONS TO CITY CODE
CHAPTER 2, ARTICLE 2-1, SECTION
2-1-3 DUTIES OF OFFICE AND ARTICLE
2-3, SECTION 2-3-1 PRIMARY ELECTION)

) City Attorney Joel Stern
briefed the council on the item.

Mayor Insalaco called for a
motion.

Councilmember Wilson MOVED
THAT THE FOLLOWING DIRECTION BE GIVEN TO STAFF REGARDING
PROPOSED REVISIONS TO APACHE JUNCTION CITY CODE CHAPTER 2 MAYOR,
COUNCIL AND APPOINTED BOARDS AND COMISSIONS, ARTICLE 2-1
COUNCIL, SECTION 2-1-3 DUTIES OF OFFICE AND ARTICLE 2-3 COUNCIL
ELECTIONS, SECTION 2-1-3 PRIMARY ELECTION: THAT THE CITY
ATTORNEY BRING BACK AN ORDINANCE ON OCTOBER 18, 2016.

Councilmember Evans SECONDED
THE MOTION.

City Clerk Kathleen Connelly
stated they have given them the option of the first regular
meeting in January or a special meeting. The reason for that
is, not in 2017, but in 2019 the first regular meeting in
January falls on New Year's Day. That is why they have an
option built in there.

VOTE: Unanimous.

The motion carried.

SELECTION OF MEETING DATES, TIMES, LOCATIONS, AND PURPOSES

Vice Mayor Barker MOVED THAT
AN EXECUTIVE SESSION AT 5:45 P.M. AND A WORK SESSION AT 7:00
P.M. BE HELD ON MONDAY, OCTOBER 17, 2016, IN THE CITY COUNCIL
CONFERENCE ROOM AND CITY COUNCIL CHAMBERS RESPECTIVELY;

AND THAT AN EXECUTIVE SESSION AT 5:45 P.M. BE HELD ON TUESDAY,
OCTOBER 18, 2016, IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Evans SECONDED
THE MOTION.

VOTE: Unanimous.

The motion carried.

CALL TO THE PUBLIC

Mr. Harvey Clark addressed the council regarding the Apache
Junction Chamber of Commerce Visitor Information Center
consultant contract past financial reports.

Councilmember Waldron directed the city manager to look into the
matter.

ADJOURNMENT _____)
_____) Mayor Insalaco adjourned
the meeting at 8:35 p.m.

Consent Agenda Items are as follows:

1. Consideration of acceptance of agenda.
2. Consideration of approval of minutes of the special meeting
of September 19, 2016.
3. Consideration of approval of minutes of the regular meeting
of September 20, 2016.
4. Presentation and discussion on Resolution No. 16-29,
approving the completion of an intergovernmental agreement
with the Salt River Pima Maricopa Indian Community in the
amount of \$100,000 to be used to construct a water feature at
the Flatiron Community Park.

ACCEPTED THIS _____ DAY OF _____, 2016, BY THE
MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2016.

REGULAR MEETING OF THE CITY COUNCIL
OCTOBER 4, 2016
PAGE 30 OF 31

JOHN S. INSALACO
Mayor

ATTEST:

KATHLEEN CONNELLY
City Clerk

CITY COUNCIL MINUTES
CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the city council of the City of Apache Junction, Arizona, held on the 4th day of October, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 11th day of October, 2016.

KATHLEEN CONNELLY
City Clerk