



City of Apache Junction, Arizona

Meeting Minutes City Council Meeting

Meeting location:

City Council Chambers
at City Hall
300 E. Superstition Blvd
Apache Junction, AZ
85119

www.ajcity.net
Ph: (480) 982-8002

Tuesday, September 17, 2019

7:00 PM

City Council Chambers

A. CALL TO ORDER

Mayor Serdy called the meeting to order at 7:03 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Vice Mayor Wilson gave the invocation and Councilmember Schroeder led the meeting attendees in the Pledge of Allegiance.

C. ROLL CALL

Present: 7 - Mayor Serdy
Vice Mayor Wilson
Councilmember Barker
Councilmember Evans
Councilmember Rizzi
Councilmember Schroeder
Councilmember Struble

Staff in Attendance:

Bryant Powell, City Manager
Matt Busby, Assistant City Manager
Joel Stern, City Attorney
Jennifer Pena, Deputy City Clerk
Thomas Kelly, Chief of Police
Larry Kirch, Development Services Director
Heather Patel, Grants Administrator
Mike Loggins, Water Utilities Director
Sidney Urian, City Planner
Kent Fowler, Police Officer

D. CONSENT AGENDA

1. [19-439](#) Consideration of acceptance of agenda.
Councilmember Barker moved, seconded by Vice Mayor Wilson to approve the consent agenda.
2. [19-440](#) Consideration of approval of minutes of the regular meeting of September 3, 2019.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

3. [19-421](#) Presentation of proclamation designating the month of September 2019 as "Suicide Prevention Month".

Mayor Serdy read the proclamation for suicide prevention month and presented it to Braden Biggs.

4. [19-430](#) Presentation of proclamation designating the week of September 17th to 23rd as "Constitution Week".

Mayor Serdy read the proclamation for National Constitution Week" and presented it to Daughters of the American Revolution Karen Barks and Carol Wilson.

F. ANNOUNCEMENT OF CURRENT EVENTS

5. [19-441](#) Announcement of current events from mayor and councilmembers.

Councilmember Struble stated they held Constitution Week event despite the rain. Carlos Vega, a 5th grader from Arches Academy and Brady Williams from AJ High School were the two students who won the essay contest and were present to read their essay's to the attendees.

Councilmember Evans recognized the Daughters of the American Revolution as an amazing organization and stated her two daughters and two nephews were the founders of the first Children of the American Revolution (CAR) chapter in Mesa.

Vice Mayor Wilson announced he and his wife attended the National Constitution Week celebration.

Councilmember Barker announced she and other councilmembers attended the Dolce Vita celebration event where it was recognized as making the 50 best master-planned communities in the nation by *Where to Retire* magazine.

G. CITY MANAGER'S REPORT

6. [19-442](#) City Manager's Report.

City Manager Bryant Powell announced improvements to the city's agenda management software.

As the city continues to move forward with technology and transparency measures, more of the city's boards and commission agenda's and minutes are being added. This makes it easy for the public to find city meetings, minutes and watch the meeting all in one location.

He announced the City recieved the Arizona Planning Association award for the active transporation plan.

He introduced the Pinal County Attorney Kent Volkmer.

7. [19-409](#) Introduction of and discussion with Pinal County Attorney Kent Volkmer.

Mr. Volkner commented on the wonderful relationship they have with the County. He invited the City and Council to provide any insight or feedback as to how the County Attorney's office might better serve the city. They are always open for ideas on improving processes or implementing new programs.

H. PUBLIC HEARINGS

8. [19-449](#) Presentation, discussion, public hearing and consideration of proposed Ordinance No. 1481, case PZ-3-19, a proposed rezoning amendment of approximately 2.66 acres on the northwest corner of Ironwood Drive and Baseline Avenue, currently zoned B-1/PD (General Commercial/Planned Development) to facilitate a carwash, retail space and a drive-thru restaurant.

Vice Mayor Wilson moved, seconded by Councilmember Rizzi to have Ordinance No. 1481 be read by title only and the entire reading of the Ordinance be waived.

Jennifer Pena, Deputy City Clerk read the Ordinance by title only.

Vice Mayor Wilson moved, seconded by Councilmember Evans that Ordinance No. 1481 as read by the City Clerk be approved.

Yes: 7 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi, Councilmember Schroeder and Councilmember Struble

No: 0

Sidney Urias, city planner, provided a brief presentation on the rezoning of 2.66 acres related to case PZ-3-19 located north of the northwest corner of Ironwood Drive and Baseline Avenue. The applicant is requesting a change to the planned development to accommodate a carwash on the south end of the property. In 2015 the property owner received site plan approval for an inline retail center on the west end of the property with two retail buildings, one on the north side and one on the south side.

Staff is recommending approval subject to the conditions listed in the report.

In response to questions from Council, Mr. Urias stated there is still the cross access to the property from the existing Chevron gas station.

Paul Gilbert, 701 North 34th Street, Phoenix, attorney for the applicant stated he represents the proposed owner of the car wash. They agree with all the staff stipulations, have met with neighbors through several of the neighborhood meetings, and he was there to answer any of Council's questions.

Councilmember Evans inquired if they were developing the north side of the property, to which Mr. Gilbert stated they are only purchasing the south side of the property.

Councilmember Barker inquired as to the timeline of the project.

Mr. Gilbert stated they hope to be open for business in a year. They are ready to get moving on

the project.

Mr. Schroeder expressed concern over the pass-through traffic from the Chevron, to which Mr. Giblert stated they have an agreement with the owner for the pass-through traffic. They are actually very much in favor of the pass-through traffic as they believe will increase persons stopping for gas or other purchases from their station.

Mayor Serdy opened the public hearing.

Mr Robert Pizorno, representing the owners of the Chevron station stated they have worked out the easement access and are satisfied with the relationship they have with the owners to the south.

Mayor Serdy closed the public hearing.

9. [19-448](#) Presentation, discussion, public hearing and consideration of Ordinance No. 1478, amending Apache Junction City Code, Volume I, Chapter 2: Mayor, Council, and Appointed Boards and Commissions, by creating new Article 2-9: Public Art Commission; repealing any conflicting provisions; providing for severability; and establishing an effective date.

Councilmember Barker moved, seconded by Councilmember Rizzi that Ordinance No. 1478 as read by the City Clerk be approved and adopted with the following amendments:

- **The City Council act as the deciding body for art in public places**
- **The Commission serve as the recommending body for art projects related to art in private development**

Yes: 6 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi and Councilmember Schroeder

No: 1 - Councilmember Struble

Heather Patel, Grants Administrator, stated Ordinance No. 1478 would allow the creation of the Public Art Commission. She stated there were two items within the proposed ordinance that needed Council's determination. One item was the composition of the commission, the other was the duties of the commission, whether they be a recommending body or deciding body; and whether it be the same for public or private property. Based on that decision, then it may be necessary to decide on an appeal process.

If the commission is a recommending body for both public places and private development and the council the deciding body, the appeal process would default to Superior Court and the person would have to show the council acted in an arbitrary and capricious manner.

Councilmember Struble inquired about the title of the commission as a "public" art commission. He does not have a problem with the commission. He prefers to make it a recommending body for the public art, but he is not in favor of the commission regulating anything on private property.

Councilmember Barker asked for clarification on the ordinance before them.

Ms. Patel stated it was the make-up of the commission and whether it be a recommending body or deciding body.

Mayor Serdy opened the public hearing, there being no comments from the public, Mayor Serdy

closed the public hearing.

Councilmember Schroeder stated he thought the commission could be a recommending body for the public art, but a deciding body for the private development.

Council held lengthy discussion on whether the city should require new development or whether an existing building undergoing a remodel or improvements should be required to contribute to the art fund.

Councilmember Rizzi asked for staff to clarify the difference between private development and public art.

Ms. Patel stated the commission is titled "public" because art is visible to the public. Art in a public place would be projects initiated by the city. Private development consists of development or commercial projects, as well as a residential development of 10 units or more.

Like many other cities, these developments or projects require a percentage of the cost of the development be contributed to an art project for their property, or if they could not put an art project on their development, then that percentage be placed in the "art fund".

Councilmember Barker moved, seconded by Councilmember Evans that Ordinance No. 1478 be read by title only and that the reading of the entire ordinance be waived.

Yes 7 - Mayor Serdy, Vice Mayor Wilson, Councilmembers' Barker, Evans, Rizzi, Schroeder and Struble.

No - 0

Deputy City Clerk Jennifer Pena read the ordinance by title only.

10. [19-404](#) Presentation, discussion, public hearing and consideration of Resolution No. 19-24 declaring as a public record that certain document filed with the city clerk and entitled "2019 Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-13: Design Standards, Section 1-13-4, Art in Public and Private Developments".

Councilmember Barker moved, seconded by Councilmember Rizzi that Resolution No. 19-24 be approved.

Yes: 6 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi and Councilmember Schroeder

No: 1 - Councilmember Struble

Heather Patel, Grants Administrator stated there were changes to the city code language which was presented at the last meeting at the request of council. The changes reflect the amount devoted for public/private art originally stated: "is not less than 1%" the change proposes the following language, "equal to 1% of building construction costs".

Councilmember Barker inquired about the projects that were listed as ineligible, on page 6 item D, but then seem to be eligible as stated on page 11. It was very confusing.

There was further clarification discussed on various sections of the proposed language of missing, damaged, destroyed or removed, and various other matters.

Mayor Serdy opened the public hearing, receiving no comments from the public, he closed the public hearing.

Council held discussion on if they could differentiate between non-profits and religious organizations to be excluded from the public/private art requirements.

City Attorney Joel Stern discussed laws that could be applied to this proposed public art ordinance, one was the Religious Land Use and Institutionalized Persons Act. It allows a religious institute to say the requirement is too much of a burden and allows them to prove the excess burden.

Mayor Serdy opened the public hearing again in case anyone in the audience wished to speak.

Braden Biggs, 2492 W. Cactus Wren, Apache Junction, AZ stated he sat through all the Planning and Zoning meetings where this was discussed and when you start talking about exemptions certain organizations, he stated there are 29 different classifications for non-profits. He personally does not care for the equal to 1% for the art fee. He stated the private entities are not required to put art on their property, they can donate to the art fund instead. He hoped the council moves forward in the formation of the commission and the code can be worked on over the next couple of weeks as the commission would not take effect until 2020.

Mayor Serdy closed the public hearing.

Councilmember Struble stated this is not a donation of the 1%, it is mandated to put up or incorporate art in their development or put the 1% in the public art fund.

11. [19-402](#) Presentation, discussion, public hearing and consideration of Ordinance No. 1477, amending Apache Junction City Code, Volume II, Land Development Code, by adopting by reference new section 1-13-4, Art in Public and Private Developments; repealing any conflicting provisions; providing for severability; providing for penalties; and establishing an effective date.

Councilmember Rizzi moved, seconded by Councilmember Barker that Ordinance No. 1477 as read by the City Clerk be approved and adopted.

Yes: 6 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi and Councilmember Schroeder

No: 1 - Councilmember Struble

Larry Kirch Development Services stated this item is part of item 10 and subject to a public hearing.

Mayor Serdy opened the public hearing, receiving no comments he closed the public hearing.

Councilmember Rizzi moved, seconded by Councilmember Evans that Ordinance No. 1477 be read by title only and the reading of the entire ordinance be waived.

Deputy City Clerk Jennifer Pena read the ordinance by title only.

Unanimous approval.

I. OLD BUSINESS

J. NEW BUSINESS

K. COUNCIL DIRECTION TO STAFF

12. [19-444](#) Presentation, discussion and direction to staff on proposed revisions to Apache Junction City Code, Volume 1, Chapter 4, Fees, pertaining to proposed fees for publicly accessible art in private developments, revisions to fees for legal advertisements for planning and zoning cases, and amendments to certain building permit fees and grading permit fees.

Councilmember Barker moved, seconded by Councilmember Rizzi to direct staff to move forward with the posting of fees to the city website as required.

Yes: 6 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi and Councilmember Schroeder

No: 1 - Councilmember Struble

Larry Kirch, Development Services Director stated his presentation addresses the proposed fees for the public art which are listed in Chapter 4 of the City Code, the change to legal advertising for planning/zoning cases and building permits and grading permits.

They are looking for council's direction to move forward in posting this information to the city website for the 60 days as required. Once posted and published, it would be brought back to Council in December for adoption of the Ordinance.

Mr. Kirch went through the fees, variable conditions, and fee changes in great detail.

L. SELECTION OF MEETING DATES, TIMES, LOCATIONS, AND PURPOSES

13. [19-443](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, September 30, 2019 and Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Tuesday, October 1, 2019 in the city council conference room and city council chambers located at 300 E. Superstition Boulevard, Apache Junction, Arizona, respectively; and other meetings if necessary.

Councilmember Evans moved, seconded by Councilmember Barker that an executive session at 6:00 P.M. and work session at 7:00 P.M. for Monday, September 30, 2019 and an executive session at 6:00 P.M. and work session at 7:00 P.M. for Tuesday, October 1, 2019 be held in the city council conference room and city council chambers located at 300 E. Superstition Boulevard, Apache Junction, Arizona, respectively.

Yes: 7 - Mayor Serdy, Vice Mayor Wilson, Councilmember Barker, Councilmember Evans, Councilmember Rizzi, Councilmember Schroeder and Councilmember Struble

No: 0

M. CALL TO PUBLIC

Terry Reynolds, 1121 S. Lawther Dr. Apache Junction, AZ commented on the proposed contract for solid waste services. He felt the motion made by council indicated the residents who opted for the recycling option, would be in effect entering into their own contract and therefore not be subject to the terms and limitations negotiated into the base contract for twice weekly pick-up.

He expressed concern that the city's contract would be locked into the \$8.00 fee, but since the resident could opt into a second contract for recycling services, the base fee for them, could be changed.

It has been implied that the city has been actively looking at this change to solid waste collection since May of 2018. Since then and as of June of 2019 he has not seem much communication between the city and the residents. He inquired as to the community outreach efforts. He asked for any town meetings on the issue, any surveys conducted and other contact which has been made between the residents and the city. He could not find much data.

N. ADJOURNMENT

Mayor Serdy adjourned the meeting at 8:50 P.M.

ACCEPTED THIS _____ DAY OF _____, 2019, BY THE MAYOR
AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2019.

JEFF SERDY
Mayor

ATTEST:

JENNIFER PENA
Deputy 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 _____ day of _____, 2019. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2019.

JENNIFER PENA
Deputy City Clerk