



# 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

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Tuesday, February 21, 2017

7:00 PM

City Council Chambers

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### A. CALL TO ORDER

The regular meeting of the City Council of the City of Apache Junction, Arizona, was held on February 21, 2017, at the Apache Junction City Council Chambers pursuant to the notice required by law.

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

### B. INVOCATION AND PLEDGE OF ALLEGIANCE

Councilmember Rizzi gave the Invocation.

Vice Mayor Wilson led the Pledge of Allegiance.

### C. ROLL CALL

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

**Staff Present:** City Manager Bryant Powell  
Assistant City Manager Matt Busby  
City Clerk Kathleen Connelly  
City Attorney Joel Stern  
Public Safety Director Tom Kelly  
Public Works Director Gao Pham  
Development Services Director Larry Kirch

**Others Present:** Public Information Officer Al Bravo  
Senior Planner Rudy Esquivias

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Fleet Services Superintendent Brian Gleave

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**D. CONSENT AGENDA**

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

**No:** 0

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

THAT RESOLUTION NO. 17-04, 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 PINAL COUNTY FOR THE CITY'S PARTICIPATION IN THE PINAL COUNTY HOSTED ANNUAL SAFETY ROADEO, BE APPROVED; AND

THAT RESOLUTION NO. 17-02, 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 ("COMPACT") AMONG THE SIGNATORY POLITICAL JURISDICTIONS WITHIN THE STATE OF ARIZONA AND THE ARIZONA DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS, BE APPROVED.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [17-048](#) Consideration of acceptance of agenda.
2. [17-049](#) Consideration of approval of minutes of regular meeting of February 7, 2017.
3. [17-041](#) Consideration of approval of proposed Resolution No. 17-04, authorizing the city to enter into an Intergovernmental Agreement with Pinal County for the city's participation in the Pinal County hosted Annual Safety Roadeo.
4. [17-051](#) Consideration of approval of proposed Resolution No. 17-02, authorizing the city to enter into an Intergovernmental Agreement among the signatory political jurisdictions within the State of Arizona and the Arizona Department of Emergency and Military Affairs.

**E. AWARDS, PRESENTATIONS AND PROCLAMATIONS**

5. [17-014](#) Presentation of 30-year Service Award to Carlena Lawson of the Police Department.

Public Safety Director Tom Kelly gave a brief work history of Carlana Lawson who has been with the police department for 30 years. City Manager Bryant Powell presented her with a certificate for her 30 years of service, a monetary award, 40 hours of vacation time, a plaque and advised her name would be added to the plaque in the lobby.

## **F. ANNOUNCEMENT OF CURRENT EVENTS**

Vice Mayor Wilson commented on the positive comments he received at the Arabian horse show at Westworld last weekend in Scottsdale regarding the Apache Junction area.

Councilmember Barker congratulated the Lost Dutchman Marathon Committee for the marathon going off even with the inclement weather. She thanked all the volunteers for their time and effort.

Councilmember Rizzi thanked all the volunteers for their help at the marathon. She read a note from one of the runners complimenting them on a well run marathon even in the rainy weather.

Mayor Serdy commented the rain was at times driving and staff and the volunteers were tested. It was awe-inspiring to see them at work.

Mayor Serdy announced he attended the Phoenix-Mesa Gateway Airport board meeting this morning. They covered their budget and land use compatibility plan where they will try to get some rentals that may provide jobs for Apache Junction. The director wants to do something with the schools to give tours and educate the students on the history of the airport.

## **G. CITY MANAGER'S REPORT**

### **6. [17-043](#) City manager's report.**

City Manager Bryant Powell commented on the dedication of the new water treatment plant, an award received by the water district for the new plant, read an email from a marathon participant and thanked Liz Langenbach, the parks and recreation department and the public works department for their work on the marathon.

Mayor Serdy asked if the numbers were way down for the marathon.

City Manager Bryant Powell stated he has not seen the numbers yet but from what he saw when he was out there he does believe

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there will be a reduction in numbers due to the weather.

## H. PUBLIC HEARINGS

7. [17-061](#) Consideration for approval of application for a temporary extension of premises for Elks Lodge #2349 located at 2455 N. Apache Trail for the Paws 4 Life Charity Car Show on March 11, 2017. The next step in the process for the council is to hold a public hearing on the application and make a recommendation for approval or denial to the Arizona Department of Liquor Licenses and Control.

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

**No:** 0

City Clerk Kathleen Connelly briefed the council on the item.

Mayor Serdy requested the applicant address the council.

Ms. Cindy Pierson, Elks Lodge, Apache Junction, addressed the council. She thinks this is the fifth or sixth year of hosting this for Tuni House. It is a great event.

Councilmember Evans asked when the event begins and ends.

Ms. Cindy Pierson stated registration starts at 7:30 a.m. and ends at 9:30 a.m. The car show starts at 10:00 a.m. and goes to 2 p.m.

Councilmember Evans commented everything is done at 2 p.m.

Ms. Cindy Pierson stated they are probably all gone by 2:30 p.m.

Mayor Serdy asked how the money is raised for the charity and what people can do to help make it more successful.

Ms. Cindy Pierson stated they can just come out. Paws 4 Life is the charity; they just host the event. It is Tuni's nonprofit organization that benefits from this car show.

Mayor Serdy asked if there are things to buy or an admission fee.

Ms. Cindy Pierson stated there is no admission

fee. She believes all the people showing their cars pay to put their cars into the show. She does believe there will be stuff for sale.

Mayor Serdy asked if they would be taking donations. He knows they are always looking for food at the show.

Ms. Cindy Pierson stated they are.

Mayor Serdy opened the public hearing on the item. There being no one wishing to speak, he closed the public hearing and reopened the item to council discussion. There being no further discussion, he called for a motion.

Councilmember Evans MOVED THAT THE APPLICATION FOR A TEMPORARY EXTENSION OF PREMISES FOR ELKS LODGE #2349 FOR MARCH 11, 2017, SUBMITTED BY CINDY PIERSON, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

8. [17-062](#) Consideration of application for a temporary extension of premises for Hitching Post LLC located at 2341 N. Apache Trail for a music festival on March 12, 2017. The next step in the process is for the council to hold a public hearing on the application and make a recommendation for approval or denial to be forwarded to the Arizona Department of Liquor Licenses and Control.

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

**No:** 1 - Councilmember Waldron

City Clerk Kathleen Connelly briefed the council on the item.

Mayor Serdy requested the applicant address the council.

Mr. Mehmood Mohiuddin, 2341 N. Apache Trail, addressed the council. He stated they have built a façade on that location on Apache Trail. The contractor pulled a permit but had a subcontractor build it. The subcontractor did not do the job that was supposed to be done. The inspector came and checked it out along with Larry and Dave. He was advised it was not built as it should have been. He notified the contractor

who said he would look into it but he never did. He brought a different architect to a meeting with city officials two weeks ago. They are working on it with a specialist who is building the ties safe. They have been in communication with Larry and Dave. He was advised this evening they are working on a new drawing, the specialist inspected it and they are sending all the calculations. Staff should have all the information they need this week and what things still need to be done. They will take care of those things that still need to be done.

Councilmember Evans asked what time the festival will be running.

Mr. Mehmood Mohiuddin stated he is just applying for the extension to sell liquor over there. There is someone from the blues festival here who can answer those questions on when it is starting, ending and security. He will just be selling liquor and food if this is approved. His name is J.C.

Councilmember Evans asked if they have ever approved a liquor license on a piece of property that is not a part of the business.

City Clerk Kathleen Connelly stated they can do that. It has to be adjacent to it.

Councilmember Evans commented as long as it is contiguous it is alright.

City Clerk Kathleen Connelly stated that is correct. In this case it clearly is.

Mayor Serdy commented usually the events he has up there are tied to a charity. He asked if this one is tied to a charity or if it is just for fun.

Mr. Mehmood Mohiuddin stated this is on a trial basis. They have tried to do several events in the past and there were some issues for the charities. The Fallen Officers pulled out because they saw some different issues and problems that they did not want to deal with. They did help the boys and girls club, other Fallen Officers and the Hope Center. This is a new beginning. The gentleman approached him about doing the festival. He said he would try it. If they do not have any problems with the public or neighborhood and everything goes smoothly, they will definitely have charities in the future.

Councilmember Evans commented she was still trying to find out what time the event will be.

Mr. Mehmood Mohiuddin stated they will have to talk to the gentleman.

Councilmember Waldron requested they hear from Larry on the building issue.

City Attorney Joel Stern stated as a matter of procedure, they can do it this way but it may make the meeting longer. If they are going to have questions, they can go ahead and ask the questions and then open it up to the public.

Development Services Director Larry Kirch stated the façade Mr. Mohiuddin was referring to had two separate permits issued. One was for the eastern side and that project was completed. A second permit was issued for the one that fronts along Apache Trail. The design that was originally approved was not exactly built that way. Building services cannot give them a final out permit until they get some more architectural drawings. The original architect that designed the first part of the project is involved. Simpson is the company that builds the ties and they are attaching the wood beams to the metal posts. It sounds like things are progressing. What Dave Zellner was saying was if the festival goes forward and the architectural design is not resolved by that time then they would want some buffer between where the vendors might be and the façade. They do not expect the wind to blow anything down but they are erring on the side of caution. They do not want the event held up for that reason. There has been a lot of email communication in the last week or two with revised drawings that they can approve and final out the project.

Councilmember Waldron commented the real issue is how close the vendors are to the façade. Their concern is that it could blow over. It is a safety issue.

Development Services Director Larry Kirch stated that is correct. The event can go on as long as there is some space and that area secured. This could all be resolved by March 12 or the end of this week. There are two things going. One is the internal events process and the other is the liquor license extension and they interweave. They are trying to make sure the crowd is safe. If they get the engineering and the permit finalized they should be okay. If they do not get it by that point they want some sort of buffer.

Mayor Serdy commented they are seeing progress every day.

Development Services Director Larry Kirch stated that is correct.

Councilmember Waldron asked who will make sure the buffer is there if the engineering is not completed.

Development Services Director Larry Kirch stated staff would have to go out and check it the day they set up the event. It sounds like it is all set up and taken down in the same day. They would have to go out there on March 12. He believes Dave was calling for about a 15' separation to secure the area.

Councilmember Evans commented they are still wanting the time of the event.

Mr. John Chavez, Asking MARA Events, the festival coordinator, stated it will take place March 12 from 11 a.m. to 5 p.m. It will probably be wrapped up by about 4:30 p.m.

Mayor Serdy opened the public hearing on the item.

Mr. Bill Wallingford, 2055 N. Cortez, Apache Junction, addressed the council to advise he and his wife are against the extension. They live a quarter mile from the Hitching Post and it is extremely loud when they have the bull riding.

Ms. Bonnie Farlin, 1925 N. Cortez, Apache Junction, addressed the council to advise she is against the extension for this event.

Mr. Howard Hymes, 1774 N. Starr, Apache Junction, addressed the council to advise he is against the extension due to safety reasons.

Mr. John Chavez stated as far as the event is concerned this is very mellow demographic. They will be dealing with the arts and a jazz and blues festival. They are very well-behaved people from about 45-years-old to 60-years-old. He does these festivals across the state and the biggest concern they have is a couple of little old ladies fighting over some jewelry. Everybody has a good time and it is an opportunity for the community to come together. He hopes to have the same type of response that they received from Lost Dutchman.

Mr. Jim Duncan, 2745 E. Smoketree, Apache Junction, addressed the council on behalf of himself and some of his neighbors. This is about an extension of premises into an area not part of the Hitching Post business that is surrounded by a large walled structure that does not look safe or legal located next to the state highway. Traffic will be funneled



from the highway onto Lost Dutchman into a parking area. The event is 5.5 hours from 11:30 a.m. to 5:00 p.m. It will have amplified outdoor music and other arts festivities that will include liquor. He has safety concerns and it is next to a residential neighborhood. He asked them to vote no.

Mayor Serdy closed the public hearing on the item and reopened it to council discussion.

Councilmember Rizzi commented it has become a point of contention between the Hitching Post and the neighboring community. She does not have words for it anymore. It is very clear that the neighbors in that area are going to make sure Mo does absolutely no events at his place of business. There is a large section of our community that is asking to have events, festivals and music during the day time hours. There is a segment of our community that wants this and we have neighbors that are just going to do anything they can to shut this event at the Hitching Post down. We have talked with both groups. We have talked with the Hitching Post. We have talked with the community. We have tried to get these two groups to come together and come to some kind of terms. We want to have events in our community. For some reason this point of contention is going to go and go and go and go. It is really saddening. As far as the safety goes with this façade, she believes it has been up for quite a while. The business owner is working with the city. Whatever mishap happened with the people that built it, he is working with the city trying to get it fixed. He is simply trying to bring entertainment; safe, fun, friendly entertainment to this community. But we have a segment of people in this neighborhood that are going to do everything they can to make sure that does not happen. That is a sad, sad thing when we are trying to bring events to our community. She does not know what to say about this anymore. They have asked both parties to get together and work it out so that we can have these events for this community. The man is trying to run a business. He is not trying to do anything wrong. He is not trying to circumvent anything. He is trying to follow the rules. Get together and work it out. Let us have some fun. It is a beautiful time of the year. Let us focus on good things in our community rather than nitpicking and nitpicking and nitpicking at this guy because that is how it really seems.

Councilmember Barker commented it is also very important folks realize we are simply a pass through group when it comes to a temporary liquor license. What we say goes to the state but the state makes the decision. We actually do not. We can turn it down, it goes to the state, they say okay and that is it. This is a courtesy from the state to allow us to do this. It does not mean that much.

Councilmember Evans commented she was hoping before there was another event there could have been a meeting of minds between the neighbors and the events taking place. That has not happened yet and that is unfortunate. She does not fault the neighbors at all because they are constantly bombarded by this. There are other segments of the community that do not live there and they enjoy their peace and quiet. She does not feel bad about the neighbors. She feels bad the neighbors and Mo have not been able to come to terms before another event was placed before the council. She understands both sides completely.

Mayor Serdy commented he wanted to make a couple points. They had some pretty hard winds a few weeks ago and if that did not blow it over he does not know if they will get any harder winds than that. This is a different kind of event. It is not rock and roll. He does not think it is going to be amplified in the same manner some of the other music is. He called for a motion.

Councilmember Barker MOVED THAT THE TEMPORARY EXTENSION OF PREMISES FOR HITCHING POST LLC FOR MARCH 12, 2017, SUBMITTED BY MEHMOOD MOHIUDDIN, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: 6-1 (Councilmember Waldron voted in opposition due to the safety issue.)

The motion carried.

9. [17-060](#) Presentation, discussion, public hearing and consideration of proposed Ordinance No. 1443, case PZ-14-16, a request by Apache Mustang 1 LLC and Apache Mustang 2 LLC, represented by Mario Mangiamiele, for approval of a Planned Development Major Amendment for the Mustang Center, a +/- 4.5 acre property located at 2540 W. Apache Trail, zoned General Commercial by Planned Development (B-1/PD) to expand or change the palette of business uses for the commercial center.

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

**No:** 0

Development Services Director Larry Kirch introduced Planning Intern Lindsay Bresnahan from Arizona State University who would give the presentation.

Planning Intern Lindsay Bresnahan briefed the council on the item.

Vice Mayor Wilson commented he has a question on the used merchandise sales that is currently going on at St. Vincent de Paul. He asked how that would affect them.

Planning Intern Lindsay Bresnahan stated the St. Vincent de Paul would remain as it is. They are under the charity designation as a different use so it would not be under used merchandise. It would not allow any additional used merchandise businesses.

Councilmember Evans asked if there have been any problems in that area such as transients or if there is an increased amount of them compared to other areas of town.

Public Safety Director Tom Kelly stated not any more than anywhere else in Arizona.

Councilmember Barker commented what she is basically saying is that these folks want a laundromat and in order to have a laundromat they need to change.

Planning Intern Lindsay Bresnahan stated that is correct.

Councilmember Barker commented that is basically what this whole story is.

Planning Intern Lindsay Bresnahan stated they also want to look at the whole available uses and add anything additional while they are going through the process.

Councilmember Struble commented the issue of the used store is because St. Vincent de Paul is a nonprofit.

Planning Intern Lindsay Bresnahan stated that is correct. That is the distinction they have made. It would be considered separate from a used merchandise. It could remain as is. There could be no future used merchandise stores. It is because it is a 501(C)3 that it is exempt from that.

Councilmember Struble asked if that is in the code some place.

Development Services Director Larry Kirch stated generally he believes it is religious. It may be a question for Joel. When they got to discussing all the uses they do have some other used merchandise stores in town. They asked about having an antique store and how it is different from someone selling items like a thrift store. It would be a thrift store that is not nonprofit related. With a couple of other thrift stores they have seen, it is simply a use they did not

really think was compatible with the character of the uses that are already there such as the beauty shop and Jimmie John's. What is there can stay there.

Mayor Serdy asked if there is something in the code to differentiate between used merchandise and antiques and collectibles.

Development Services Director Larry Kirch commented he does not have the table of uses off the top of his head. He asked Rudy if he knows if those are separated.

Planning Intern Lindsay Bresnahan stated she looked at the code matrix and there is no separate antique sales spot.

Development Services Director Larry Kirch stated they would be considered as another retail-type store.

Mayor Serdy commented antiques would be okay but used televisions are not.

Development Services Director Larry Kirch stated that would be correct.

Councilmember Barker commented if it was an old used television it would work.

Mayor Serdy commented if you watch Pawn Stars there are some things on there he would not consider to be antiques but it is now.

Development Services Director Larry Kirch stated that is correct.

Councilmember Barker commented so they are really saying no more thrift stores in that area rather than used merchandise.

Development Services Director Larry Kirch stated that is typically what they are saying when they say used merchandise. The category in the zoning code has used merchandise.

Councilmember Barker commented she thinks they need to change the categories so that it is clear.

Development Services Director Larry Kirch stated the allowed uses follow the NAICC code, it is the North American Industrial Classification Code.

Councilmember Barker commented maybe they should put thrift store in parenthesis.

City Attorney Joel Stern stated he probably should not bring this up but in the past there have been some issues regarding pawn shops. They may recall that. There were some definitional issues. There were some proposed definitions that articulated the difference between second hand stores and antique stores. That code never went into existence because it was resolved at the state level regarding pawn shops. There have been discussions about re-adopting another zoning code and that is when those definitions can be more clarified. However, if they were to pass it, the charitable organization that currently does that type of use would be allowed to continue it.

Mayor Serdy commented he does not want to rewrite all the code tonight but obviously the question is how charitable. Everybody thinks that Good Will is charity but it is really not. Probably some percentage or something must be donated.

City Clerk Kathleen Connelly stated she would be remiss as the city's tax person if she did not say the laundromat use would produce a minimal amount of sales tax. The use of the machines is considered rental. That would be taxable. It would be taxable if someone had to pay for detergent but overall it is minimal. Some of the other proposed uses listed on pages 4 and 5 of the staff memo, health services, educational services, equipment maintenance and repair, pet care and employment services, those are non-taxable unless somebody sells an item. She is not quite certain what indoor craftsman and artisan construction is or telecom services. Telecom services, if it is like Verizon and they are selling something, the product is taxable. But if they are just selling a subscription to a phone service it would be taxable on the far end but not for that particular store.

Mayor Serdy requested the applicant address the council.

Mr. Mario Mangiamale, Iplan Consulting, Gilbert, addressed the council. He stated this is a planned amendment request for approximately 4.5 acres of commercial center. It is surrounded by adjacent properties that are still within the planned development overlay but are separate properties. He described the properties surrounding the site. An update to the floor plan is the Jimmie John's in Suite 101. The amendment is to modify the palette of uses of permitted, conditional, administrative as well as prohibited uses. When the initial planned development was adopted there were many limitations placed on these properties as this is a primary

gateway into the city with a lot of visibility along Apache Trail. While they agree it is important to maintain a limitation of uses within this center, it is also important to consider looking at additional uses. They believe they are at a competitive disadvantage with some of the uses that have gone on. There is a check cashing store directly east of their property that is allowed within that zoning while their site is not allowed that use. It is the same zoning and planned development. When the planned development overlay was approved for this shopping center the zoning code at that time they may not have considered additional analogous uses. They looked at what uses they thought would be compatible with the center and its surrounding area but still be compliant with the general plan. They worked with staff to develop a list. The primary driver for this was a laundromat or dry cleaning facility but they looked at additional uses that could be compatible with this center. Staff and the planning and zoning committee are in support of the new list of uses except for the four that are underlined, including the used merchandise sales. According to the code, used merchandise sales encompasses a lot of use types. It could be an antique store, a play it again sports, a used records and tapes store and a multitude of different types of uses that fall under that category. The ownership would like to maintain they are actively trying to seek uses that very well could be located there such as an antique store. The antique store is not separate in the zoning code. It is under used merchandise sales. They would also like to locate a pawn shop in the center along with a check cashing store. They are in agreement with staff that a group home would not be the best use of the property. There is no room for one. They had a neighborhood meeting on December 15, 2016 but they did not have any attendees. Staff advised there has been some fallout from one neighbor adjacent to the property with the primary concern being maintenance issues. They may not necessarily be germane to this zoning case. The owners of the center are relatively new and have put forth substantial capital to improve the center. There were a lot of maintenance issues but it is moving forward in a positive manner. They are committed to working with the city and the adjacent owner to address any maintenance concerns. This is a unique opportunity to amend the planned development overlay to add additional uses to the center to hopefully expand the employment base as well as fill vacancies within the center. He respectfully asked for their approval.

Councilmember Evans commented there is the check cashing store next door. She asked how they can say no here but yes there. It is contradictory.

City Attorney Joel Stern stated that is more of a policy issue on how close they would have them. They can do it legally. It is really a policy decision. They can ask Larry

what the basis of the policy would be from a planner's point of view. That would be your professional staff advising what they believe is appropriate for that particular area in town and particular property.

Councilmember Struble commented one of his questions had already been answered when they were advised they had been there about seven months. A lot of those store fronts have been empty. He asked if he has placed any new businesses in there in the last seven months.

Mr. Mario Mangiamele stated he is not sure if Jimmie John's located there within the last seven months. He would have to go back with the ownership. He thinks they may have been there a little longer. He believes the vacant store fronts have been there for quite some time to his knowledge.

Councilmember Struble asked if he thought they needed these changes to fill those spaces. They have been limited in finding occupants because of the palette.

Mr. Mario Mangiamele stated it is somewhat limited when compared to the surrounding planned development. The ownership has had a number of interested parties but some of them they have already told they would not support those sales, such as liquor stores. That is one they have specifically prohibited with the amendment. There have also been some other uses where they have been told that is not what they are trying to achieve in the center.

Councilmember Struble asked if they have been in contact with the neighbor who is concerned about the noise and other issues.

Mr. Mario Mangiamele stated he cannot speak for the owners. He does know he was out there with one of the owners on a particular day and they attempted contact with someone who was out in her yard yet still respected her privacy. They did have a brief discussion. The primary communication has been through staff which is probably more appropriate at this time due to some concerns.

Councilmember Rizzi commented she thinks the applicant brought up a good point with his comment on used merchandise. He mentioned a few of the stores that brings up a valid point. It is a little bit of a concern of hers.

City Manager Bryant Powell stated they may want to check with staff on the legality of this. The council may want to decide if these uses should be allowed or not. One thing they briefly talked about to the planning commission is

attaching a conditional use permit to that use so that any time that particular use comes forward there is another level of the process that is open to the public with the planning commission and the council getting a chance to review it, whether it is an antique store or a thrift store. Staff is trying to avoid any more thrift stores in this area.

Mayor Serdy opened the public hearing on the item.

Mr. Raydon Biggs, 4864 E. Alamo Street, San Tan Valley, addressed the council. He is there to represent his parents and neighbors who live north in Haven Hollow. They are in full support of the building and laundromat. Their concern was the letter sent out was very vague on what was going into the building. In the future, they suggested that if it is known what is going in the site to include that information. It could clear up some confusion.

Mayor Serdy closed the public hearing with no one else wishing to speak. He reopened the item to council discussion.

Councilmember Barker commented dollar stores, pawn shops and check cashing stores the council does not want to see side by side. This is a development right next to at least one of those. She can certainly understand why staff would prohibit that from that particular development. If not, they could have check cashing stores up and down the Trail and that is not what they want to see. If the lady thinks St. Vincent de Paul is causing her trouble she will find out a laundromat will do a lot more. She does share the concern about the used merchandise. It is very strange that it is so broad, undefined and undefinable. That is something in the future they need to address.

Vice Mayor Wilson commented this overlay was approved back in 2002.

City Clerk Kathleen Connelly stated the initial redevelopment area was approved by council, it went to a referendum vote and it was upheld by the citizens. There were some changes that the council approved after that. Rudy could probably give the time frame on when those things happened.

City Manager Bryant Powell stated it has been there for a while.

City Clerk Kathleen Connelly stated it was originally voter approved.



Vice Mayor Wilson commented they need to address the idea of an antique store as to him that was confusing. It is tying too much together.

Mayor Serdy commented they do not get a lot of revenue from a laundromat but having all the businesses filled would be ideal. If you have ever had to use a laundromat, when you put your stuff in there you have some time. You will go shop at the Dollar Tree or wherever. He then closed the discussion with no further comments and called for a motion.

Councilmember Waldron MOVED THAT ORDINANCE NO. 1443 BE READ BY TITLE ONLY AND THE READING OF THE ENTIRE ORDINANCE BE WAIVED.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

City Clerk Kathleen Connelly read the ordinance by title only.

Councilmember Waldron MOVED THAT ORDINANCE NO. 1443. AS READ BY THE CITY CLERK, BE APPROVED AND ADOPTED.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

## **I. OLD BUSINESS**

None.

## **J. NEW BUSINESS**

10. [17-067](#) Presentation and discussion with city staff and representatives of Enterprise Fleet Management regarding a lease to purchase option for vehicle procurements for FY 2017-18.

City Manager Bryant Powell stated Brian Gleave will be giving them a presentation on information gathered over the last two years on vehicle purchasing. This is discussion only and will propose an option for the budget process.

Assistant City Manager Matt Busby advised Eric Meyer was in attendance from Enterprise in case they have any

technical questions on the lease purchase program.

Fleet Services Superintendent Brian Gleave gave a presentation of the lease purchase program.

Councilmember Waldron asked if Enterprise is the only one that offers this program.

Fleet Services Superintendent Brian Gleave stated they are not. He believes there are some other ones that do offer it but the city was approached by Enterprise. Staff has looked into this but has not pursued any others that he is aware of.

City Manager Bryant Powell stated that is more of a procurement question so they would definitely be vetting that out and working through that. Remember this is still the information stage and they are still in the process of learning it. It is a commitment and he wants to make sure they are comfortable with it. It is something he sees from where he is sitting now to when he was sitting where Matt is that they have a lost decade. The sales tax revenue, the ability to do what we used to do is just not there. They keep getting further and further behind. This is just an option. This is the second year in a row they are making this recommendation. They will keep watching it. They will definitely look at different procurement ideas.

Councilmember Evans asked why they would go through Enterprise versus going straight to the dealer.

Fleet Services Superintendent Brian Gleave stated they purchase the vehicles through Enterprise and they are, if we elect to do Ford, they would be going through our local dealer and they would get the credit for the sale of the vehicle although they are not the one that actually sold the vehicle. That would also help the dealership.

Councilmember Evans commented it seems like there is one extra person in the line to make something happen. She has leased vehicles before. She asked if a lease to purchase is just for the city. She has leased a vehicle for a certain time and then turned it in.

City Manager Bryant Powell stated it might be a good idea for the Enterprise representative to come up and talk to them about the lease to purchase part of it.

Councilmember Evans asked what will happen to our department now and those employees if they will be handling the maintenance part of it.

Fleet Services Superintendent Brian Gleave stated he would still like to maintain the police vehicles because he believes they would have a little bit faster turnaround and the employees they currently have take pride in the police vehicles. They still have 165 other pieces of equipment. By doing this they would free up the current staff they have to further take care of the vehicles. They could design programs that could actually do so.

Councilmember Evans commented they would not be stretched so thin.

Fleet Services Supervisor Brian Gleave stated that is correct.

Councilmember Evans commented that is okay. She just wanted to make sure no one would get laid off.

Fleet Services Supervisor Brian Gleave stated he is sure they could keep everyone busy.

Councilmember Struble asked what a white fleet is.

Fleet Services Supervisor Brian Gleave stated they call the administrative vehicles white fleet. They are any vehicles the city has that are normally white.

City Manager Bryant Powell stated those are parks and recreation, public works, administration vehicles and development services. Pretty much everything that is not the police department or the big ones.

Councilmember Struble asked if this includes electric vehicles and alternative fuel vehicles.

Fleet Services Supervisor Brian Gleave stated from what he understands it is anything that Ford has to offer.

City Manager Bryant Powell stated they tried an electric vehicle before and he can give them some information on how well that has gone with Ford.

Councilmember Barker commented he had said that Enterprise would dispose of our current vehicles. She asked how that would be accomplished.

Fleet Services Supervisor Brian Gleave stated it would take six years. They would take the ones the city is going to delete. They would then auction them for the city and the monies would come back to the city.

Councilmember Rizzi commented she could tell him where to get a good deal on tires.

City Manager Bryant Powell stated they would be bidding them out.

Mayor Serdy commented this is for discussion only.

City Manager Bryant Powell stated the only other question was on the lease purchase. He asked the representative if he could answer how the lease purchase would go.

Mr. Eric Meyer stated the program is available for municipalities as well as corporations and privately held companies across the nation. It is not an option for an individual. In general the individuals are considered a long term rental. There is a limited amount of time and miles. If the mileage is exceeded or there is wear and tear there are additional costs.

Councilmember Struble asked if he was saying there is no limit on the miles.

Mr. Eric Meyer stated there is no limit on miles and no wear and tear penalty. The benefit of these programs is that through this type of program they can fund more vehicles and get more of the older vehicles off the road for about the same budget. If they had a \$225,000 budget to acquire vehicles for the year, they might be able to acquire ten vehicles. By using the funding mechanism, they could acquire 40 or 45 vehicles with the lower maintenance costs. They reduce the overall spent and the fuel efficiencies play out with newer, more reliable and safer vehicles. They are lowering the fuel costs, lowering the maintenance costs and with the government purchase program their acquisition costs are so low it gives them great incentive to acquire newer vehicles.

Councilmember Waldron asked where they make their money at, knowing they are not a charity.

Mr. Eric Meyer stated they acquire a million vehicles a year. They have agreements with every major manufacturer. There is money made on the front end much like a dealership. The manufacturers give them a kickback. The local dealerships still get credit for delivering the unit so they get a little bit of money on the front end plus they get the manufacturer credit for delivering the unit which helps them in ordering the following year. Through their program they pay for the maintenance and repair excluding tires. That is generally

run through the local dealership for their mechanics. If it is run through the dealership they make money on the repairs as well. The overall goal is to reduce the cost through efficiency, reducing operating costs and fixing those costs so that municipalities across the nation can budget accordingly and replace the fleet on a regular cycle.

Councilmember Evans asked why they only seem to use Ford of all of the manufacturers that they work with instead of some of the other dealerships that have entire lines.

City Manager Bryant Powell stated that would be a question for the chief.

Councilmember Evans commented she wants to know the one that has the best performance record. She asked if it is Ford, Toyota, Nissan or another.

Mr. Eric Meyer asked if from a safety perspective.

Councilmember Evans commented from maintenance costs.

Mr. Eric Meyer stated they are all within a penny or two per mile for the major manufacturers and the types of vehicles they are recommending. If they are all within the ballpark, they look at acquisition costs, disposal or resale and recaptured equity. If they can acquire vehicles for a lower cost and recapture equity at an optimal time, then the overall depreciation of the vehicle is much lower. Ford plays very well in the fleet world. They are very, very aggressive with incentives for government entities across the nation. That is why they are the preferred vendor and in this case it is because of the type of vehicles and utilization that they have looked at. Ford came out on top.

Councilmember Struble commented at the end of five years the city owns 75% of the vehicle. There are depreciation costs at the end of five years. For an example, at the beginning the vehicle is worth \$25,000. It depreciates out totally in business after five years. He asked what 75% of the value would be if it is totally depreciated out which would be zero.

Mr. Eric Meyer stated they are depreciating it out at a lower rate because of the utilization. The lower miles typically come into play in the market place. With five years or 100,000 to 125,000 miles, they will see a significant reduction in market value. The city's utilization of the vehicles traveling is estimated 5,000 to 10,000 miles a year.

There are cases where mileage increases in some of the vehicles because of utilization, but on average that vehicle may only have 60,000 to 70,000 miles after five years. It has not been fully depreciated in the sense of the useful life. The goal is to depreciate accordingly based on what is actually used. If there is a case where a driver is utilizing the vehicle at 20,000 to 25,000 miles per year, then that vehicle would be depreciated accordingly and probably depreciated to zero over the course of five years.

Councilmember Struble asked if at the end of five years they use the Kelley Blue Book value of it and get 75% of that.

Mr. Eric Meyer stated they actually go to the open market and sell the vehicle. The majority of the vehicles are actually sold by hand to local dealerships that are franchised and privately-owned. A very small percentage actually go through auction. That recapture of equity is for the city to hopefully roll back into the fleet and reduce the overall costs. That is all part of the cost of the program.

City Manager Bryant Powell stated this is an informational item and they will be bringing it up again during the budget process.

Mayor Serdy closed the item and moved on to the next item.

11. [17-064](#) Presentation and discussion of case AM-2-16, a proposed text amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1 Zoning Ordinance, Article 1-6 Supplementary Regulations, Section 1-6-12 Medical Marijuana, requested by SVACCHA, LLC, represented by Jenifer Corey, to amend the city's non-profit medical marijuana use regulations to allow for medical marijuana facilities, including dispensaries, cultivation facilities and infusion facilities, as determined by the Arizona Department of Health Services for the Apache Junction Community Health Analysis Area. Other proposed amendments also include, but are not limited to: possibly allowing location of said facilities in planned development zoning districts; adding more land uses from which a proposed medical marijuana facility must keep a separation distance; better defining security requirements; and possibly allowing dispensaries to sell other products to registered medical marijuana patients.

City Attorney Joel Stern briefed the council on the item. The planning and zoning commission had continued this item and therefore the council could not meet on it. The item will be on the March 7 agenda.

Mayor Serdy closed the item and moved on to the next item.

## **K. COUNCIL DIRECTION TO STAFF**

12. [17-065](#) Presentation, discussion and possible council direction to staff on establishing oleander regulations.

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

**No:** 0

City Clerk Kathleen Connelly stated there are some request to speak forms that the mayor has. There are some people who thought they could speak on this item. Since it is not a public hearing they cannot do so. They will have to wait until Call to the Public to speak.

Mayor Serdy commented there will be no speaking on this item at all other than up here.

City Clerk Kathleen Connelly stated it will be staff, the mayor and council only.

City Attorney Joel Stern briefed the council on the item.

Councilmember Evans commented as a horse owner she lost her last horse about eight weeks ago. It is always traumatic when they are sick and whenever they pass. One of the problems she has with this is she went on the internet and typed in Arizona plants poisonous to horses. There are actually ten of them. To just single out oleanders is not the intent. We have so many areas and we will have more and more of these areas where we are going to have subdivisions or planned communities that border horse property. She agrees that if they can have it as recommended in the design code or the landscaping code because some of the information that she was reading was even dried oleander leaves are sometimes found in flakes of hay. She asked where they could say the leaves that killed this horse come from. That is her question. She asked how they could enforce what could happen. There is no way to prove it. We can recommend these not be planted or any of these ten plants be planted. She asked what the enforceability is of any already existing. She asked how do they prove which house or if it blew up from Casa Grande in one of our summer windstorms. She asked how they prove where those leaves came from.

Mayor Serdy commented if someone obviously

maliciously planted them they are not going to listen to a recommendation. They did it on purpose with intent to harm an animal they did not like. That would answer that question.

Councilmember Struble commented he is not sure how that would answer that question. The question is the enforcement of anything we do. Like Gail asked how do they enforce. He asked if should they put it into a planned development and say it cannot be planted in these developments.

Mayor Serdy asked if it would be easier to do by zoning. He cannot have a horse where he lives but he can have oleanders. If they are in an area planned for horses they should be banned in those areas.

City Attorney Joel Stern stated they can do that but they would again be subject to Proposition 207 which is for people who already have the banned plant. If they are going to do it, it is probably better to have a list of plants that should not be planted. It is not a recommendation, it is a prohibition.

Mayor Serdy commented castor bean should be on there as well as it is an accident waiting to happen, too.

Councilmember Rizzi commented she has burros and her neighbor has horses. They have oleanders going down the entire property line where it divides the animals. She has lived there for over twenty years. It is unfortunate that it can happen but they have never had an issue. The neighbor's horses run free and her burros run free and they have never eaten them. She is concerned with getting into banning them because then we would go around and start making people pull them out that already have them. They can be very beneficial for certain areas for people that want a wall. They can be attractive. She would be more in favor to see if they could have something where if it is an issue with the neighbor, the neighbor has to contain it. It is on the neighbor's property and has now become an issue. It should not be an issue. Whatever is on one's property should not be an issue. She does not know if they can enforce that. She asked if they could enforce them to keep it trimmed below the fence line or keep them trimmed back on their fence. She asked if they fine them if they do not.

Mayor Serdy commented if he goes in there with loppers, they fall to the ground and if he does not pick them up then they can blow into the neighbor's property. They cannot just cut them, they have to be cut and picked up.

Councilmember Struble asked if this would fall



under the same as dirty pool rules or whatever you want to call it where because of mosquitoes and all that kind of stuff. He asked if that is how they would enforce this.

City Attorney Joel Stern stated that is one way. They would basically call it a public nuisance. They could add to Chapter 9 in what is a public nuisance and this could be one of them. There could be an enforcement issue depending on the officer. They might need some more officers to really go after all the oleanders. Like they saw with Norco, they do it on a complaint basis. They do not go and look for them.

Councilmember Rizzi commented that is what she was going to suggest, that they make it complaint based so that you can have them but if it becomes an issue and a complaint is filed, then it would be code enforcement. Make it complaint driven. People should have to keep their plants and stuff or whatever on their property. It should not interfere with the neighbors.

Vice Mayor Wilson commented he has been sitting back and listening to everyone as they all know he has horses. Fortunately he lives in an area that does not have oleanders. What started this issue has been one neighbor decided to plant oleanders adjacent to the area where horses are kept and housed. The neighbor is of the opinion that he wants the oleanders to grow to 20' in height. He has stated his goal is for his neighbor not to have any horses at all. This has spread to other areas, not necessarily in our city, where they are learning that oleanders are a poisonous plant. He talked to a veterinarian in Gilbert who has treated horses that have come in contact with oleanders. They do become severely sick and in one case the horse died. A dog was treated this past November that passed away. The young boy that was playing with the dog had used an oleander stick for the dog to retrieve and the dog became sick afterwards. He related the story of his grandfather many years ago who trimmed oleanders and put them into a plastic bag to haul to the landfill. He ended up in the hospital for almost ten days because of oleander poisoning. He would like to see them look at an ordinance saying if someone has oleanders on their property it would be okay but they have to keep them contained. The leaves and branches must be on their side of the property. The height of the oleander should be restricted to the height of the fences keeping them in. We have rules under the cruelty side that if someone puts a container of antifreeze out in front of their house because a neighbor's dog keeps coming over and crapping in the yard, they can be charged with animal cruelty because that is done. By the same token, this is one of those things that you look at and it is almost the same thing. This is a neighbor wanting to get rid of someone else's

property on their property. They feel this is a way of going about and doing it. They want the person gone so this is what they want. He understands this is civil in nature between two neighbors but it is something he feels they need to look into as to what they can do to best avoid future as well this problem. It can continue to grow. We will have more people buying in the large lots of our community and there will be some people who will say they are tired of hearing that mule or horse at 3:00 a.m. pulling on the feeder or neighing in the middle of the night. They will want something done about it. It is the rural part of our community. It is something we enjoy as members of the horse community. He mentioned he had been at West World and the number of people that came up to him and stated they enjoy the Apache Junction area, including Canadians, Minnesotans, people the furthest east in New York, people from here who brought their horses here to either be boarded and ride in our area. They want us to maintain the area. He feels this is something we need to look at. It is the best way we can assist in trying to control their spread.

Councilmember Waldron commented he has a couple of concerns. The information that was provided to them last time from the University of New Mexico indicated the green leaves are not poisonous to animals but the leaves that have fallen to the ground are.

Vice Mayor Wilson commented they are both poisonous. The dried leaves are a little bit less than the green leaves. The plant does not lose the poison. It stays with it when they are dry or green. The green leaf has more of a bitter taste so the animal does not want to eat the green leaves. If it is dried and mixed in with the hay, and it does happen, it is harmful to the animal.

Mayor Serdy commented it is more of a problem because they do not know they are eating it.

Councilmember Waldron commented he agrees with Christa where an outright ban is probably not appropriate. This is a neighborhood dispute that is a civil case. We are trying to look at ways to push that dispute city-wide and affect everyone else. We need to take a close look at some options. If they are going to look at this for an ordinance, they need to look at options that are available. It is like the legislature. One legislator up in Phoenix will deal with one constituent and introduce a bill that affects the whole state. To him this is not appropriate. They need to look at some options with this one and see what we can do.

Vice Mayor Wilson agreed with him and commented they need to see what they can do.

Councilmember Barker commented the vice mayor brought up a point and she is wondering if it could be one of the options, and that was the animal cruelty thing. She wonders if they could look at it from that point of view. A neighbor that has drooping oleanders who does not bother to pick them up could possibly be charged with that. She does not know. She is trying to get away from the whole city or a specific zone or that type of thing.

Councilmember Evans commented she would just like to look at it and consider doing it on all ten poisonous plants instead of just singling out oleanders.

Councilmember Barker asked what the ten plants are.

Councilmember Evans commented they are bracken fern, hemlock, Johnson grass, locoweed, oleander, red maple trees, water hemlock, yellow star thistle, tansy ragwort and yew. It is a design issue because of the enforcement. It is so unfortunate that this is another neighbor situation tonight where we have neighbors angry. She is curious as to why he is so anti-horse. She wondered if there was another issue that created him to plant his oleanders. We do not know. We are not here to settle neighborhood disputes. That is not their purpose. In protecting our animals, they should not just single out oleanders when they know there are ten that are actually poisonous to horses.

Mayor Serdy commented oleanders are very common and people plant it because they think it is pretty. The only other one he has seen for sale, one will see ferns for sale and castor beans for sale but he does not think one will buy hemlocks and yew plants here. He thinks they have a chance to send a message that we are very horse-friendly. They do not have to be followers. They can go above and beyond and people pay attention to that. The whole valley is losing its horse presence. Let us send a message that we are horse-friendly. It does not have to be the whole city; just the area zoned for horses. Since this is going to be direction to staff he asked if they could get more input from people of the horse community besides the vice mayor. He asked if they could have an open suggestion period for people.

City Attorney Joel Stern stated that could be part of the direction to staff.

Mayor Serdy commented he would like to see that kind of involvement.

Vice Mayor Wilson asked if he was saying to have some type of committee set up to look into this.

Mayor Serdy commented possibly. He always goes to the experts. If it is a firearm issue they do not want to have people settle that who know nothing about it. Let us hear from the people that are living this every day and see what their suggestions are.

Councilmember Evans asked if he meant veterinarians or people dealing with the sick horses from these issues or just horse community people.

Mayor Serdy commented horse community and the veterinarians. Maybe landscapers, too. There are a lot of landscapers in town that might have a different view on this than us.

City Manager Bryant Powell stated he always goes back to what problem definition are we trying to solve here. If they are going to set up a committee to talk about it, they can do that. That may be one way. But they need to define the problem. He does not know where Councilmember Rizzi is going on this, but it is a neighbor to neighbor. We do know, based on what Vice Mayor Wilson was talking about it possibly has a malicious intent. We can certainly ask staff to do it with a direction to staff. It would be put on staff and that is time. There will be other things we will not be able to do. But he wanted to say we can do that. He wanted help in defining what it might look like.

Councilmember Rizzi asked if we currently have an ordinance that says one has to keep their tree branches or stuff on their side of the fence or yard and contained.

City Clerk Kathleen Connelly stated we do not.

Mayor Serdy commented that has come up before. His yard is hanging over everybody's yard but he is in a different type zone. He has oleanders and he is not going to be poisoning any horses.

Councilmember Rizzi commented if it is complaint driven then it can be enforced. The mayor is not causing a problem and his neighbor does not have an issue. If her oleanders are flopping over onto the neighbor's side and it is an issue, then it becomes complaint driven. Her point is, if it is complaint driven it does not have to be enforced. The neighbors get along and love the plants and everybody is happy.

Mayor Serdy commented if there is an acacia

pendula that looks like a weeping willow it will not do any harm and it is pretty. But he might have someone move here from California or New York and they do not like it. That is why it would be good to name oleander by name. When oleanders are hanging over it is a different situation.

Councilmember Struble commented he agrees with Bryant that they need to get very specific as to what we are looking for and how we want to attack that.

City Manager Bryant Powell stated we want to manage this. We have been talking about this for a long time. This is the first case he is aware of where we have had this type of issue. It may not be, but it is the first one that has come to the council. He does not know if this is a widespread problem or how many horses are affected. Without data, it sounds like we have one case and maybe they can talk to the neighbors. He asked if they had done that.

Councilmember Wilson commented he has not talked to the neighbors personally. His wife has and others have. They are not very receptive at all to conversation.

Councilmember Waldron commented maybe this would be something for Solve It.

City Manager Bryant Powell stated that is an option. It is a third party group that does mediation. He does not know if they have been asked.

Mayor Serdy commented they have the capability of bringing people together.

Councilmember Waldron commented they work with the two parties.

City Manager Bryant Powell stated when we get into spots, staff does reach out to Solve It. We usually have a few cases a year where we cannot get past an impasse on neighbor to neighbor disputes. It is a third party group but it has to be both sides wanting to be part of it.

Councilmember Waldron commented they just attempt to resolve issues between those two parties. They do not create things.

Mayor Serdy commented if you look out into the audience there are more than those people concerned about it.

City Manager Bryant Powell asked if the city attorney or development services director had any thoughts about the three main themes of containing the leaves, branch height

and cruelty.

City Attorney Joel Stern asked what his question is.

City Manager Bryant Powell stated Vice Mayor Wilson brought these three items of cruelty to animals, height of the fence or keeping it. He asked if they have the ability to enforce that if it is complaint driven.

City Attorney Joel Stern stated they can pass an ordinance on height. It would have to be in the property maintenance code and they would need officers to enforce it. They would have to decide if it would be complaint based or proactive, meaning code officers going down the street looking for stuff. That is one proactive way. Or it could just be complaints. They can do that through Chapter 9. The cruelty to animals is a more difficult question. In the criminal code they have to have an intent by the individual, a specific intent to actually harm an animal. There are different degrees of cruelty to animals. If they did not know that it was poisonous or if they testify that way, that is one issue. The question is how they would prove specific intent. If people heard them in the past say they want to kill all the horses in the neighborhood so they are going to have 20' tall oleanders because they know they are poisonous, that is a different issue. There is also the question of would it be prosecuted as a misdemeanor or a felony. If it is a felony it has to be done through the county attorney's office. If it is a misdemeanor it would be his office. There is a lot of prosecutorial issues there. The third one was containment. Wind does amazing things. It is hard to contain a plant event if it is at 6' tall and parallel to a wall and it is no taller than that. The question would be how they would prove that leaves that end up on someone's property came from that particular property. Even if they cut them to a level that was required under the code. They can pass something that says they have to contain it but they would get into enforcement issues. The individual officer would have to see leaves blow over. It would have to be something like that.

Councilmember Barker commented it sound to her like they are looking at putting something into the property maintenance code that would simply prohibit as Councilmember Evans is saying all those plants in any new development. That does not help this particular problem but again this is an individual problem. He is saying that animal cruelty is probably way out and he is saying containment is probably impossible. If they are going to be really specific on what we want we need to come down to that level. They have to decide where they want it, how they want it and so on. They cannot just tell staff to go do something about this because our staff

is so busy now they are running around constantly with how many code amendments to make and so on. This is just one more thing piled on them.

City Attorney Joel Stern commented he thinks it is true that mulberry trees cannot be planted in the city. They have the beginning of a list. He asked if that is under Chapter 9.

Development Services Director Larry Kirch stated it is part of the landscape code. For new development they could discourage or prohibit certain types of species. For the other part they were talking about, it sounds like one approach is Chapter 9 which is property maintenance. They would add those to the list and it could be done like Norco on a complaint basis. They would still have to get some parameters. They could limit it to the height of the wall next door but that is not going to rule out 100% that a dried leaf is not going to blow over the wall. It would be better than not having the ordinance at all. He thinks complaint driven is really the only way to go. They cannot obviously go out and start looking for every oleander bush.

Councilmember Evans commented if they did it for new development then someone buys a house with the initial landscape package. That person then decides since these plants are being sold at local nurseries and stores, it is not as though they are not obtainable, not like trying to buy a marijuana plant, they will buy oleanders.

Development Services Director Larry Kirch stated it could be part of a homeowners association. They could have it in the CC&Rs. They could list plant species that might not be allowed. The homeowners association would say these are the plant species one could have but they cannot have these three or ten. They could be an enforcement tool if there is a homeowners association. If it is someone just pulling a building permit on a 1.25 acre zoned general rural, there are no landscaping requirements for new development, meaning one single family home on a lot. This would be for commercial developments and planned developments that would usually have a landscape architect involved and they could have those under the landscape code. In other areas they would have to use the property maintenance code.

Vice Mayor Wilson commented he is going to explore his comment on getting input in. If he remembers correctly several years ago they had a group of citizens that met, he does not remember if staff was involved or not, on the use of steel buildings in the zoned area just north of where he lives.

City Attorney Joel Stern stated that was for the accessory buildings.

Vice Mayor Wilson commented that is correct. He asked if staff was involved with them as well.

City Attorney Joel Stern stated they did not have a committee, something that is like a formal committee, but he believes the city manager and staff were on the committee. He asked if that was correct.

City Manager Bryant Powell stated that is correct. Another example was the time when they worked through with the private haulers regarding waste removal of manure. They had some staff, some outside experts and the trash companies. They could set up a committee kind of like that if that is what he is thinking of.

Vice Mayor Wilson asked if it would be possible to do something like that. He MOVED IT WOULD NOT BE AN OFFICIAL COMMITTEE BUT WOULD BE AN ADVISORY GROUP THAT WOULD COME BACK WITH A RECOMMENDATION TO THE COUNCIL TO TURN AROUND AND RECOMMEND TO STAFF.

City Attorney Joel Stern stated he can direct the city manager to create a technical committee. He would not call it a committee.

Vice Mayor Wilson AMENDED THE MOTION TO WORKING GROUP.

City Attorney Joel Stern stated a working group would be good. It would be good as long as there are no council members on it, otherwise they would be recommending to the council.

Councilmember Barker asked if that was his motion.

Vice Mayor Wilson commented it sounded like a good motion to him, that we have a working group.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

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



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

**No:** 0

Mayor Serdy called for a motion.

Councilmember Evans MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A REGULAR MEETING AT 7:00 P.M. BE HELD ON MONDAY, MARCH 6, 2017, IN THE CITY COUNCIL CONFERENCE ROOM AND CITY COUNCIL CHAMBERS RESPECTIVELY; AND

THAT AN EXECUTIVE SESSION AT 6:00 P.M. BE HELD ON TUESDAY, MARCH 7, 2017 IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Barker SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

13. [17-044](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, March 6, 2017.
14. [17-045](#) Executive Session at 6:00 P.M for Tuesday, March 7, 2017. Other meetings if necessary.

#### **M. CALL TO PUBLIC**

Mr. Rich Brown, 236 N. Saguaro, Apache Junction, addressed the council regarding semi-trucks being parked in front of the Veterans of Foreign Wars so that cars cannot go in and out of the parking lot. He requested a no parking or unloading area in front of the Veterans of Foreign Wars.

Mr. Brian Johogos, 2285 S. Royal Palm, Apache Junction, declined to speak.

Mr. Steve McClintock, 3720 Rowan, Mesa, president of the Back County Horsemen, addressed the council in support of oleander control.

Mr. Darryl Cross, 1018 N. Acacia, Apache Junction, addressed the council in support of oleander control.

Ms. Katherine Boron, 344 S. Starr, Apache Junction, addressed the council in support of oleander control. She had a copy of an oleander ordinance she wanted a few years ago.

Ms. Judy Lutes, 4381 N. Ironwood, Apache Junction, addressed the council regarding the Winters Visitors Association Farewell

Bash.

Mr. Jeremy Hoenack, 1985 W. Apache Trail, Apache Junction, addressed the council to show the lake from rain where his driveway is supposed to be after improvements done to his plaza.

Councilmember Waldron directed the city manager to direct the public safety director to look into the problem with the semis. It is a narrow street and it may just take a visit from the chief to have them direct the trucks somewhere else.

City Manager Bryant Powell stated he and the chief will touch base on that.

Vice Mayor Wilson asked staff to look into the drainage issue.

Mayor Serdy commented he would like to look into that, too. If it was not like that before we did the work we should not be making things worse. There might be some kind of spillway we can dig. He asked engineering to look into that.

## **N. ADJOURNMENT**

Mayor Serdy called for a motion to adjourn the meeting.

Vice Mayor Wilson SO MOVED.

Councilmember Rizzi SECONDED THE MOTION.

Mayor Serdy adjourned the meeting at 9:30 p.m. with no vote.