



# 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](http://www.ajcity.net)  
Ph: (480) 982-8002

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Tuesday, March 7, 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 March 7, 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

Vice Mayor Wilson gave the Invocation.

Councilmember Rizzi 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 Attorney Joel Stern  
City Clerk Kathleen Connelly  
Public Safety Director Tom Kelly  
Development Services Director Larry Kirch

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

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Sponsorship/Partnership Programs Administrator Roger Hacker

**D. CONSENT AGENDA**

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

**No:** 0

Councilmember Rizzi MOVED THAT THE CONSENT AGENDA BE ACCEPTED AS PRESENTED.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [17-077](#) Consideration of acceptance of agenda.
2. [17-078](#) Consideration of approval of minutes of regular meeting of February 21, 2017.

**E. AWARDS, PRESENTATIONS AND PROCLAMATIONS**

3. [17-071](#) Recognition by the mayor and city council of individuals and/or organizations who/that have made donations to support city activities, programs, and projects.

Sponsorship/Partnership Programs Administrator Roger Hacker and Mayor Serdy recognized individuals and organizations that made donations of over \$23,000 in of support city activities, programs and projects.

**F. ANNOUNCEMENT OF CURRENT EVENTS**

Councilmember Evans announced they had the first meeting of the Community Development Corporation and they are looking for board members that have knowledge of infrastructure, construction and anything to do with revitalization. Please contact her or Roger Hacker.

Mayor Serdy announced he attended the Renaissance Festival this past weekend to meet with the chairman of the planning and zoning commission.

Mayor Serdy announced he and City Manager Bryant Powell attended the Canada Arizona Business Council in Phoenix last Friday. The

Canadians visiting in the winter would like to do other things here and it is something the city wanted to look into about joining.

Mayor Serdy announced the East Valley Mayors' Prayer Breakfast is March 15. It is being hosted by Apache Junction but is occurring in Chandler at the community college. Anyone can attend.

Mayor Serdy announced he has attended several state of the city and town addresses over the last few weeks in different communities. Apache Junction never had one. He commented Apache Junction will have its first state of the city address next year in 2018. They will also invite the fire district and school district to participate.

Councilmember Evans announced last weekend they had a Farmers Market at Earth Heart Park. It is always on the first Saturday of the month. Next month will be the big ladybug release for Earth Day.

Mayor Serdy announced he will have his Breakfast with the Mayor at Cobb's tomorrow at 8 a.m.

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

### **4. [17-074](#) City manager's report.**

City Manager Bryant Powell thanked everyone for their donations, commented on the funeral of Dr. William Wright and the opening of Flat Iron Park.

### **5. [16-568](#) Presentation by and discussion with Chief Paul Bourgeois of Superstition Fire and Medical District. Chief Bourgeois will present an update on the fire district.**

Chief Paul Bourgeois of Superstition Fire and Medical District gave an update on the temporary tax override, the new ambulance service, a business community self-inspection program, a Canyon Lake rescue on State Route 88, EMS Awareness Day, Deadly Distractions, April Pools Day and their volunteer program.

Councilmember Barker commented their emergency medical services are excellent. Without their help Ed Barker might not have made it. She thanked him.

Councilmember Rizzi commented he mentioned he had some fliers.

Chief Paul Bourgeois stated they are in the hall and available for pick up.

**H. PUBLIC HEARINGS**

6. [17-080](#) Consideration of application for a special event liquor license for Boys and Girls Club of the East Valley - Superstition Mountain Branch for a fundraising event on April 22, 2017 to be held at Dolce Vita, 3301 S. Goldfield, Apache Junction. The next step in the process is for the council to hold a public hearing on the application and make a recommendation of approval or denial to be forwarded 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. Sandie Smith stated the boys and girls club will be putting on its extravaganza. They raise from \$60,000 to \$80,000 each year which goes for programs in Apache Junction. She invited everyone to attend.

Mayor Serdy asked what the theme is this year.

Ms. Sandie Smith stated it is a 1920's theme on the Great Gatsby. They will get a flier over here.

Mayor Serdy asked if it is open to the public.

Ms. Sandie Smith stated it is. The tickets are \$75 per person and \$750 for a table for ten. They are going fast. They usually have over 400 people. They will also have some sponsorships available.

Mayor Serdy asked if they also look for businesses to donate stuff for auction.

Ms. Sandie Smith stated that is correct and he is always very generous. The stuff that he donates goes really well. They have a silent auction as well as a live auction. The silent auction goes from about \$50 up. The live auction is \$500 plus. They have about 430 people that come to it from all walks of life. They have a good time.

Mayor Serdy opened the public hearing in 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 Waldron MOVED THAT THE APPLICATION FOR A SPECIAL EVENT LIQUOR LICENSE FOR THE BOYS AND GIRLS CLUB OF THE EAST VALLEY - SUPERSTITION MOUNTAIN BRANCH FOR APRIL 22, 2017, SUBMITTED BY RUSSELL ST. JOHN, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

7. [17-079](#) Consideration of application for an interim permit, person transfer, limited liability company, series 7 liquor license for HP Steakhouse located at 2345 N. Apache Trail. This location was formerly the Dash In. 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.

City Clerk Kathleen Connelly briefed the council on the item.

Mayor Serdy requested the applicant address the council. There was no applicant in attendance. He 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.

Councilmember Waldron requested Rudy speak on the item.

Councilmember Rizzi commented they would like some clarity.

Development Services Director Larry Kirch stated he helped Rudy put those comments together. They had put this together in a previous letter and they were just noting the conversion of the convenience store to the steakhouse does not comply with the site plan for the economic development agreement. They had a meeting a couple of weeks ago with the owner and the city manager. They are trying to work through those things. Essentially he would need an amendment to the economic development agreement or some other mechanism that would allow that. He does not know if they can use the liquor license transfer to hold up an amendment to the development agreement. They were just noting it.

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

Councilmember Evans MOVED THAT THE APPLICATION FOR AN INTERIM PERMIT, PERSON TRANSFER, LIMITED LIABILITY COMPANY, SERIES 7 LIQUOR LICENSE FOR HP STEAKHOUSE, SUBMITTED BY MEHMOOD MOHIUDDIN, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

**This Liquor License Application was recommended for approval**

8. [17-082](#) Presentation, discussion and public hearing on proposed Ordinance No. 1444, 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.

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

**No:** 0

Senior Planner Rudy Esquivias briefed the council on the item.

Mayor Serdy commented the planning and zoning commission spent 5 or 6 hours on this in meetings.

Senior Planner Rudy Esquivias stated they had three meetings and spent several hours on this item.

Vice Mayor Wilson asked if the current facilities that are not authorized with their conditional use permit to do these proposed changes with the supplies and the delivery service would have to come through and change their

current conditional use permit in order to do so.

Senior Planner Rudy Esquivias stated they would.

Vice Mayor Wilson asked if there is a fee for doing that.

Senior Planner Rudy Esquivias stated there is. It is \$800 for a conditional use permit amendment and a \$500 advertising deposit. An applicant usually gets some of the advertising fee returned. They already have to propose a plan for permanent buildings. They are currently operating out of several temporary buildings, mobile minis and construction trailers. They are supposed to come back to propose permanent buildings and a permanent facility.

Councilmember Evans asked when that would be.

Senior Planner Rudy Esquivias stated the cultivators were approved in December 2015. Within six months prior or within eighteen months they are supposed to come back and propose their final improvements to their site. Nature's Wonder amended their conditional use permit in 2015 so 2018 would technically be their timeline to come back and renew their conditional use permit.

Vice Mayor Wilson asked if it is possible to waive a portion of this fee because the ordinance is being changed midway between their period of time.

City Attorney Joel Stern stated what they are changing is really not going to affect them. They can still operate under the conditional use permit as they are allowed. If they want to do things that are not allowed, then it is upon them to make that change. A waiver of a fee would probably be an illegal gift.

Vice Mayor Wilson asked if it would start a new three year cycle if they do a new conditional use permit.

Senior Planner Rudy Esquivias stated not necessarily. The three year time frame and the two year time frame were something the commission thought necessary. In the case of Nature's Wonder, they were still discussing the possibility of a park next door when they went through the process. He thinks the intent was to look at this in three years. If it is a compatible use everything is okay. If they get no complaints then there is no reason why they should not be able to renew it. If there have been problems and the police have been called or other problems have emerged then the commission might not consider renewing at that time. In the

case of the other folks, the two year time frame had to do with temporary buildings. Typically in our commercial zones we do not allow temporary buildings. They were allowed to operate under special conditions on a temporary basis. There is nothing in our code that says there are three-year intervals or five-year intervals. If upon the renewal the commission is comfortable with what they see, the conditional use permit can be extended indefinitely as long as they do not violate the conditions of approval.

City Attorney Joel Stern stated if they approve they cannot be closer to the park. It does not make them stop operating today. It will not do that when this ordinance becomes effective. They are vested for their three year period under the conditional use permit. When they come in for a renewal that issue will come up. However, it will be up to the planning and zoning commission whether there have been any problems with the lease or other issues that can directly relate to the existence of that business next to the park. He does not believe there have been any issues thus far.

Senior Planner Rudy Esquivias stated staff checked with the police chief and he did not cite any issues with either of the facilities.

Councilmember Evans asked why the commission was against the drive thru window.

Senior Planner Rudy Esquivias stated that provision has always been in the code. It follows the logic of there really are no more drive thru liquor stores being allowed in the state except for the ones that are grandfathered. It was something that was suggested at the time. He supposes other cities also use that provision. He does not recall if it is disallowed by state law. It was incorporated in the original version.

Councilmember Evans commented her curiosity was because Walgreen's and CVS all have drive thru windows and she wanted to know the logic behind that.

Councilmember Rizzi commented she is curious to know why we are being more restrictive with this specific type of business than we would any other pharmacy or legitimate business. It is a legitimate business. There is a stigma. She gets it. There is a stigma that comes with medical marijuana but the law says it is a legitimate business. Pharmacies are a legitimate business. She does not understand the reasoning behind being more restrictive with the spacing and with saying it should not be near a park or a church. She is not understanding the reasoning for that. We have liquor stores,



bars and pharmacies that are all located right across the street. She does not understand why they would be more restrictive other than just the stigma that medical marijuana dispensaries have.

Senior Planner Rudy Esquivias stated the spacing requirement, as far as the zoning practice, is sometimes applied to uses which are determined to perhaps be detrimental to neighborhoods if too many are clustered in one spot, such as pawn shops and adult uses. Liquor stores are supposed to be at least 300' from a school building to building. When they formulated the code in 2011 they looked at several other examples in other cities. Most of the cities they looked at were recommending spacing requirements, some much greater than our own and some less. State law only has one spacing requirement and that is a medical marijuana facility must be at least 500' from any public or private school. Staff was modeling the ordinance from other ordinances. It went from planning and zoning to council. The quarter mile between medical marijuana facilities and the 750' between a facility and some of these other protected uses talked about were the numbers that ultimately the planning and zoning commission and council decided upon. It is a number that could be changed but in no case should it go less than 500' to a school. Otherwise those numbers could be changed if they do not see clustering as an issue.

Councilmember Rizzi commented she was on the planning and zoning commission when they came up with that ordinance. They have had some time to see how this whole thing goes, see how it works and see what kind of problems may or may not arise. Based on the information they have from the time when medical marijuana first became legal to now, she is more inclined to go with the state's rule that says 500' from a school. She agrees with that. These other restrictions from a park and church she does not see the need for. The same thing with the drive thru. She has to agree with Gail. We have drive thru pharmacies. She believes these regulations are stemming from the stigma that some people have that just comes with medical marijuana. They should get beyond that and treat the facility as a legitimate business and treat these as a pharmacy which they are. They can get past it and she does not see the need to be that restrictive any more.

Councilmember Waldron asked if the federal government differentiates between recreational marijuana and medical marijuana and if it is still illegal federally.

City Attorney Joel Stern stated it is absolutely illegal federally. Enforcement of that has been an issue for many years. He thinks there is going to be an attempt to stop states from passing initiatives or whatever they are

called in different states for recreational marijuana. The states might be penalized for doing that. It is a congressional thing and a presidential thing. It is difficult to enforce against medical marijuana. He thinks about 28 states have done it already. It is difficult for the feds to do it but they might. Right now it is illegal.

Councilmember Waldron commented his point is that CVS and the other pharmacies do not sell something that the federal government says is illegal. Alcohol is a very highly regulated business. Medical marijuana is a very highly regulated business. When going into that business one knows there are regulations that go over and above an ordinary business. It is just part of being whether liquor is sold or whatever. It is just highly regulated. He does not see where the problem is.

Mayor Serdy commented he thinks pharmacies do sell things that are illegal without the prescription.

Councilmember Waldron commented it is not an illegal product. It is a legal product that they are selling whereas the federal government sees marijuana as an illegal product, even though they do not enforce it. He understands that. The federal government does not see oxycodone as an illegal product. It has illegal uses but it is not an illegal product. It is a highly regulated business like alcohol. It is one of those things that when you go into that business you know it is highly regulated.

Councilmember Struble commented the state's regulations did not change. This is strictly because the applicant is asking for the changes.

Senior Planner Rudy Esquivias stated that is correct. Some of the rules under the department of health services have changed for dispensaries and where they may be located. The original law said that 126 community health analysis area zones could each have a dispensary or perhaps more than one dispensary depending on the size of the community health analysis area. After three years the dispensaries can move around within a community health analysis area or move to another community health analysis area. Some of the discussion at the planning and zoning commission was on the whole issue of transfers. State law says the Apache Junction Community Health Analysis Area could have a dispensary but after three years another established dispensary might decide to move to Apache Junction. The only way they can accommodate that is through a conditional use permit process. When all is said and done, within the community health analysis area we may have more than two dispensaries.

Councilmember Struble asked if they would have to revisit this in three years according to the changes staff is proposing.

Senior Planner Rudy Esquivias stated it is already happening.

Councilmember Struble commented he is asking about our ordinance and the recommended changes.

Senior Planner Rudy Esquivias stated staff had recommended some language to the planning and zoning commission regarding transfers. In discussions with the city attorney at the staff level and with Nature's Wonder folks, it was learned there is a concept called ACJIS.

City Attorney Joel Stern stated that is the Arizona Criminal Justice Information System. In order to do a background check usually, for example, sexually oriented businesses, fingerprinting is required. Fingerprints are taken of the owners and employees and they are sent through the Arizona Criminal Justice Information System. The police department has that ability under Title 41. In order to use Arizona Criminal Justice Information System one has to be specifically authorized and the use has to be very specific. Sexually oriented businesses, which we do not have inside the city limits, obviously did, and would impose a fingerprint requirement. In this case the police department, the local police department, is authorized under Arizona Criminal Justice Information System for that purpose. If you misuse the Arizona Criminal Justice Information System they could take away your rights. Then if there is an arrest for misdemeanors or felonies the background cannot be checked. That is a problem. It is not worth the risk. That is one problem with requiring the police chief at the conditional use permit level to go and do the background check. Actually the state does that when the application comes in. The state is specifically authorized to do that under the Medical Marijuana Act. It was a provision under state law. It is under Title 36. It states the department of health services will take the fingerprints and they will check the owners and the employees for the proposed dispensary. Going back to the community health analysis area, there is a regulation under the Arizona Administrative Code R-1917-303. This is the one that sets how many dispensaries can be in a community health analysis area. Back when medical marijuana first came out one was put in the Apache Junction Community Health Analysis Area. Starting in 2013, and this has been in the law, every calendar year beginning in 2013 the department shall review current filed dispensary registration certificates to determine if the department may issue additional dispensary

registration certificates pursuant to Arizona Revised Statutes § 36-2804C. That means they can go and do whatever process they use to determine whether that community health analysis area will support another dispensary. They have done that through a lottery system and the applicant was the successful winner of that lottery. The applicant can locate their dispensary anywhere within the community health analysis area. Our code says only one can be in the city limits. That is an inherent conflict with this regulation. He does not think it is a zoning issue. It would not be a reasonable zoning restriction to say they can only have one inside the city limits. That would be ruled illegal. At the very least, if they do not do anything else tonight, that provision needs to be fixed. They can just fix it by saying as permitted by state law under the community health analysis area rules. He believes the city had it more formally in the presentation.

Senior Planner Rudy Esquivias stated they had a similar issue with the concept of transfers. Department of health services states Apache Junction can have two. Once again, after three years, other facilities might try to locate in our community health analysis area based on the whole idea of transfers which is under different rules in the Arizona Department of Health Services guidelines.

City Attorney Joel Stern stated after three years any dispensary can transfer to a different community health analysis area. This was a draft recently under HB2029. There was language in this bill that would have limited it to within the same community health analysis area. A dispensary from Tucson should not come up to Apache Junction. This bill is essentially dead per the League. It will not be addressed this legislative session. Transfers can happen but do not panic. They would still have to meet with the office and there is already going to be two here. There could be more but they would still have to go through the conditional use permit process. Planning and zoning would make that decision. If someone appealed it then the council gets to hear it.

Mayor Serdy asked if the police chief had any concerns about delivery during the planning and zoning meetings. He knows that to have an over lift they have to have a special certified vehicle.

Senior Planner Rudy Esquivias stated they have to be a card-carrying agent. They checked with the police chief and he is not in favor of delivery. He has some concerns on how it is regulated. The only deliveries that can be done are between medical marijuana agency people who are registered and have cards, between the patient, between the dispensary, between a caregiver and a patient.

Mayor Serdy asked the police chief to address any potential problems he might have seen.

Public Safety Director Tom Kelly stated they are asking a 40-year drug agent questions about medical marijuana. He has concerns about the delivery but he has to deal with what the law is today. Right now in this state it is legal. The state has deemed it is legal. His concerns as police chief and those of his officers he has explained to the people where this is coming into play. It is the safety of the people that will be delivering it. It is not uncommon to have known drug couriers ripped off. It is a drug that is a sought after item. There is potential for the driver of the vehicle to be in harm's way. He also has concerns for the people that are in the facility. They discussed this at great length on the original facility on how people would get in and get out if they had a hostage situation. These are all things that are being faced in other states and there are some criminal aspects that have to deal with it no matter how legal and righteous the medical marijuana folks are. They face a constant threat because there are some people out there that will prey on other people to take advantage of the situation, whether it is a cabby or anything else they may have to face here in the community. The public safety issue in regards to the delivery person, how they deliver and how they identify is their own business. He would be concerned about that as there is no way he can control it.

Mayor Serdy commented hopefully the vehicles will be unmarked.

Public Safety Director Tom Kelly stated he assumed they are not but it does not take a rocket scientist to figure out something is going from one spot to another spot.

Councilmember Rizzi commented Councilmember Waldron mentioned the federal government does not recognize medical marijuana as being legal. She asked how enforcement comes into play.

Public Safety Director Tom Kelly asked if she meant enforcement here in Arizona.

Councilmember Rizzi commented that is correct.

Public Safety Director Tom Kelly stated the state health services is the one who regulates it. They are supposed to be charged with enforcing it. They have had a pretty good relationship with the local dispensary here that allows them to do some things that some other places may not.

It is a caveat they have had here via the resolution the council had approved. The enforcement side is federal. The Drug Enforcement Administration is charged by the Department of Justice. For whatever reasons, higher up than his authority, they have deemed to turn a blind eye to it. That does not mean that cannot be changed tomorrow. They will then enforce it and do what they want to do. It is a federal thing and the federal government will have to go after it.

Councilmember Struble asked why they have a restriction as to the number of pharmacies.

Senior Planner Rudy Esquivias stated the idea of one dispensary for every ten pharmacies was something the department of health services came up with when they tried to allocate how many dispensaries should be allowed in the state. He does not know what the logic was there. That is where the code came from at the time they considered the first medical marijuana use. There are still only eight pharmacies in the city. The original language stated they would take one now and after we have experienced growth, after they have twenty pharmacies in the city, following the state's logic, we could accommodate another dispensary. Now that the dispensaries are allowed to move around and dispensary certificates have been awarded for a second round, it does not apply any more. They are following what Arizona Department Health Services recommends.

City Attorney Joel Stern stated that comes from Arizona Revised Statutes § 36-2804C. That is the requirement for one dispensary for every ten pharmacies.

Mayor Serdy requested the applicant address the council.

Ms. Jenifer Corey, Zoning Strategies and applicant's representative for SVACCHA, commented the only provisions when medical marijuana was approved by the voters were a 500' spacing from schools and capping the number of dispensaries to the number of pharmacies throughout the state. As pharmacies grew more dispensaries would be allowed. The first ordinance passed by Apache Junction was conservative because it was unknown what would happen but it showed a plan based on what they thought would happen. It was modeled after the one to ten rule and that is where the ordinance came up with the one to twenty. They did not know how many dispensaries they would get. In 2011 the Arizona Department of Health Services divided the state up into community health analysis areas with one dispensary for each one. At that time the ordinance worked. There is a rule where any dispensary can move after three years. They are finding that many dispensaries in the outlying areas

are wanting to come to the urban areas. In the fall of 2016 Arizona Department of Health Services stated the remaining dispensary certificates are open but did not know how they were going to divide them up. They had 31 dispensary certificates to award so they awarded them to the community health analysis areas with the most patient demand. Apache Junction is one of them and SVACCHA was the recipient of it. Medical marijuana is legal and highly state-regulated. There are community benefits from it. There is a huge opioid abuse issue going on and this is part of the solution. They can go anywhere in the Apache Junction Community Health Analysis Area. It could be in the county or in the city. They know they will be in the community and that is why they are here. They wanted to play fair and talk to the council to make sure the dispensary and location makes sense and they reap the benefits and spacing up to their standards. She presented a chart showing the impact of illegal drugs in the country. She understands some councilmembers' concern about whether or not this should be regulated. They are willing to accept some of the restrictions in the ordinance. They notified the city they were coming in and gave them a do over chance to modify the ordinance based on lessons learned. Before they were able to win their dispensary certificate they had to go through fingerprint security clearance. These facilities are not open to the public. She is not a card-carrying person so she is not allowed to go in. They could have simply asked for the number to be changed from one to two. They asked the city what they would like to change. The results allow for additional security requirements. The city has the ability to look over an enhanced security plan on a case by case, property by property basis. If there is any specific security issue that needs to be addressed in regards to delivery and it is part of the security plan they have to address the policing of that. They added spacing to parks and libraries which were not originally defined in there. They asked for the ability to sell medical marijuana products used for the consumption of the product in the store. It is behind closed doors and not open to the public. It makes sense to get the equipment needed when filling a prescription instead of taking that product to the head shop and buying the equipment there. They would encourage the opening of a head shop if those sales are not allowed on site. They also agree to restrict where they can go. Right now the ordinance does not have restrictions and they could go into the B-3 zoning district. They are fine with not allowing them to go into the B-3 zoning district. The only issue they still have is in regards to transfer applications. She presented a map that showed the community health analysis areas. They are scattered throughout the state. Three years have passed and dispensaries in the outlying areas want to move to urban areas. That is where the demand is. Even though the city was allowed one dispensary to begin with and they are upping it to two, there is still the potential for additional

dispensaries. That will be a policy decision but they wanted to make the council aware of the potential for that. Nature's Wonder has been successfully operating in the city. They heard at the planning and zoning commission there was really not a need for another dispensary. The state has already determined that need. The staff report states Nature's Wonder has a patient count of 500. Department of health services indicates there are 971 cardholders in the area. There is sufficient demand for a second dispensary. They have an annual 10% growth. They are not looking at taking their business. They think they can operate peacefully in a normal business manner with them. The transfer applications can come from anywhere and they can have an unlimited amount that can transfer in. They had proposed to add one sentence in the language, stating transfers as described shall not be allowed in the city limits. It essentially allows for state-issued dispensaries to come in and if they change the cap within each area it allows the dispensaries to come in, but this will stop the transfer application from coming in to the city if they are concerned about it. They have no issue with it but if they have a concern this is some potential language. This is what staff was recommending to the planning commission. The city ordinance does not allow for a delivery service right now. They are in agreement with the existing recommendation which allows for that delivery service. Delivery services are happening right now in Apache Junction. It is from dispensaries from other communities and it happens through a loophole. A caregiver loophole essentially says a caregiver within Apache Junction can grow for patients that are located more than 25 miles from a dispensary. Caregivers typically have excess product. Since they cannot sell the product they usually donate the product and charge a fee for delivery. Whether they like it or not delivery service is happening in Apache Junction. They think it would be in the city's best interest to allow it and allow the police chief to regulate it and put the proper provisions in place. Their intent is to not accept new patients over the phone to deliver to. They have to be established patients they have dispensed to previously. They have a list of provisions to make it safe. The city should reap the benefit of the delivery service and get the sales tax from it, regulate it and police it. They agree with all of staff's recommendations other than they would like to put a restriction on not allowing transfer applications to come in.

Councilmember Rizzi asked why they are not going to Gold Canyon.

Ms. Jenifer Corey stated the application tonight is to amend the text amendment. They have not identified a location. They would have to come back for a conditional use permit. They may be in Gold Canyon or not.



Councilmember Rizzi asked why there is a need for a delivery service.

Ms. Jenifer Corey stated right now they have a couple of different options. If they are able to get medical marijuana and they are really sick, right now they would have to go to a dispensary to get it. That is probably a patient they do not want driving or on the road. Another option is that person may need a surrogate to go and get the product and come back. By allowing direct delivery it goes directly to the patient from the dispensary owner. If it is an established patient in the end stages of cancer or if they have back issues that have flared up and they cannot drive, this allows the dispensary to get the product to them without having to go through the intermediary caregiver or putting them on the road.

Councilmember Rizzi commented she stated one of the reasons to allow the delivery is so that it could be regulated. It is interesting she said that because on planning and zoning when this first became legal the reason planning and zoning had gone with allowing a dispensary in the community was so we could regulate it. It is highly regulated when it is regulated by us. Without having the dispensary we would have had people potentially growing up to, she thinks, twelve plants. It would have allowed people to home grow without the dispensary. It would have been very difficult to regulate. Having the dispensary allowed local control to have the dispensaries highly regulated. She can understand why she is asking for the delivery to be included so that we have the ability to regulate when in fact it is already happening and is not being regulated.

Ms. Jenifer Corey stated she completely agrees with everything Councilmember Rizzi said. If they turn a blind eye it still happens with unintended consequences. The best way to insure there are no issues is to acknowledge it, provide proper mechanisms for security and make sure that is not a problem.

Mayor Serdy asked if there is reciprocity with the cards for other states. This is a tourist area and winter visitor area.

Ms. Jenifer Corey stated there are no reciprocity provisions in Arizona. If one has a card in Las Vegas they cannot come to Arizona to buy product.

Mayor Serdy asked if the cards could be counterfeited or if there have been any cases of that.

Ms. Jenifer Corey stated the cards are very high tech and have a lot of security features on them. She passed a card around for the council to view. They have to go through a huge process in order to get a card. It is similar to a driver's license in the scale of how they are comprised and manufactured. It is not a piece of paper. She reiterated this is merely for the text amendment in order to allow for the secondary dispensary. They still have to come back for the conditional use permit process once they have identified a site. They will have full purview over the site and what they are proposing to do, including their security plan. Apache Junction is more stringent in that respect than Mesa. In Mesa it is strictly an administrative process. It does not come before any board or hearing officer.

Mayor Serdy opened the public hearing on the item.

Mr. Daniel Beugy, 19080 E. Palm Lane, Black Canyon City, addressed the council to share some of his experiences with delivery and the applicants at their facility.

Ms. Stephanie Cronin, 324 W. Santa Cruz, Tempe, addressed the council. She is the store manager of their location and spoke in support of owners.

Mr. Jareb Mackin, 7726 E. Portland Street, Scottsdale, filled out a form but declined to speak.

Mr. Sid Chalasani, 4939 W. Ray #4145, Chandler, filled out a form but declined to speak.

Ms. Lesli Sorensen, 260 W. Apache Trail, addressed the council to advise she was appearing on behalf of Nature's Wonder and requested they continue the item to the next meeting as they have not have enough time to review the materials. She passed along an amendment they would like them to review. She spoke of their concerns against the item adding they did not have to allow a second dispensary in city limits, Nature's Wonder complying with the current ordinance and not asking for any amendments, background checks, transfer applications, the proximity of the park to Nature's Wonder and the erection of a buffer wall. She asked if they had any questions.

City Attorney Joel Stern stated they cannot ask questions at this point. She could ask a question of staff and they could get the answer to her later.

Mr. Christopher Cannon, 1229 W. 14th Street, Tempe, addressed the council to speak as a character reference

for the owner.

Ms. Kristi Reckard, 16728 E. Fairview Street, Gilbert, addressed the council to speak as a character reference for the owner.

Mr. William Cronin, 253 N. Ocotillo Drive, Apache Junction, addressed the council regarding his experience as a patient of medical marijuana and spoke in support of a second facility.

Mr. Andrew Ebling, 4774 E. Languid Lane, Cave Creek, addressed the council regarding his experience with medical marijuana and the assistance he received from the applicant.

Mr. Paul Shields, 260 W. Apache Trail, Apache Junction, part owner in Nature's Wonder, addressed the council regarding th

**I. OLD BUSINESS**

None.

**J. NEW BUSINESS**

None.

**K. COUNCIL DIRECTION TO STAFF**

None.

**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 Waldron MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A REGULAR MEETING AT 7:00 P.M. BE HELD ON MONDAY, MARCH 20, 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 21, 2017 IN THE CITY COUNCIL CONFERENCE ROOM.

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Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

9. [17-072](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, March 20, 2017.
10. [17-073](#) Executive Session at 6:00 P.M for Tuesday, March 21, 2017. Other meetings if necessary.

**M. CALL TO PUBLIC**

Mayor Serdy commented they had two people who had filled out request forms but they have both left. (George Schroeder, 2444 W. Virginia and Debra Collins, 2500 E. Tepee).

**N. ADJOURNMENT**

Mayor Serdy called for a motion to adjourn the meeting.

Councilmember Barker SO MOVED.

Vice Mayor Wilson SECONDED THE MOTION.

Mayor Serdy adjourned the meeting at 9:20 p.m.  
with no vote.

**This was approved**