



# 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, June 20, 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 June 20, 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 Evans 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 Clerk Kathleen Connelly  
City Attorney Joel Stern  
Public Safety Director Tom Kelly  
Parks and Recreation Director Liz Langenbach  
Development Services Director Larry Kirch

**Others Present:** Public Information Officer Al Bravo

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Management Analyst Heather Hodgman  
Public Works Manager Shane Kiesow

#### D. CONSENT AGENDA

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

**No:** 0

Councilmember Barker MOVED THAT THE CONSENT AGENDA BE ACCEPTED AS PRESENTED; AND

THAT APPROVAL BE GIVEN FOR THE CONTRACT BETWEEN THE CITY OF APACHE JUNCTION AND SUNLAND ASPHALT FOR PW2017-05, REPAVING WORK ON BASELINE AVENUE IN PARTIAL FULFILLMENT OF FISCAL YEAR 2017-2018 STREET MAINTENANCE PLAN THROUGH THE COOPERATIVE PURCHASING NETWORK CONTRACT NO. R5225 IN THE AMOUNT OF \$498,132.04 PLUS TEN PERCENT FOR UNFORESEEN CHANGE ORDERS IN THE AMOUNT OF \$49,813.20 FOR A TOTAL AMOUNT NOT TO EXCEED \$547,945.24; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE CONTRACT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY; AND

THAT APPROVAL BE GIVEN FOR THE CONTRACT BETWEEN THE CITY OF APACHE JUNCTION AND SUNLAND ASPHALT FOR PWC2016-08 AND PWC2017-07, FY 18 OVERLAY PROJECTS, FOR STREET PAVEMENT REHABILITATION WORK IN VARIOUS LOCATIONS WITHIN THE CITY IN PARTIAL FULFILLMENT OF FISCAL YEAR 2017-2018 STREET MAINTENANCE PLAN THROUGH THE COOPERATIVE PURCHASING NETWORK CONTRACT NO. R5225 IN THE AMOUNT OF \$503,578.86 PLUS TEN PERCENT FOR UNFORESEEN CHANGE ORDERS IN THE AMOUNT OF \$50,357.88 FOR A TOTAL AMOUNT NOT TO EXCEED \$553,936.74; AND THAT AUTHORIZATION BE GIVEN TO THE MAYOR TO SIGN THE CONTRACT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY; AND

THAT APPROVAL BE GIVEN FOR THE CONTRACT BETWEEN THE CITY OF APACHE JUNCTION AND CACTUS ASPHALT FOR PWC2016-08 AND PWC2017-07, FOR STREET CRACK SEALING WORK IN VARIOUS LOCATIONS WITHIN THE CITY IN PARTIAL FULFILLMENT OF FISCAL YEAR 2017-2018 STREET MAINTENANCE PLAN THROUGH THE MARICOPA COUNTY COOPERATIVE CONTRACT NO. 11067-S IN THE AMOUNT OF \$103,376.47 PLUS TEN PERCENT FOR UNFORESEEN CHANGE ORDERS IN THE AMOUNT OF \$10,337.64 FOR A TOTAL AMOUNT NOT TO EXCEED \$113,714.11; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE CONTRACT PENDING APPROVAL AS TO FINAL FORM BY THE CITY ATTORNEY; AND

THAT APPROVAL BE GIVEN FOR THE CONTRACT BETWEEN THE CITY OF APACHE JUNCTION AND VIASUN CORPORATION FOR PW2017-03 FOR STREET MAINTENANCE WORK IN VARIOUS LOCATIONS WITHIN THE CITY IN PARTIAL FULFILLMENT OF FISCAL YEAR 2017-2018 STREET MAINTENANCE PLAN

THROUGH THE PINAL COUNTY COOPERATIVE CONTRACT NO. EC15-008-4 IN THE AMOUNT OF \$112,014.08 PLUS TEN PERCENT FOR UNFORESEEN CHANGE ORDERS IN THE AMOUNT OF \$11,201.40 FOR A TOTAL AMOUNT NOT TO EXCEED \$123,215.48; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE CONTRACT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY; AND

THAT APPROVAL BE GIVEN FOR THE CONTRACT BETWEEN THE CITY OF APACHE JUNCTION AND VIASUN CORPORATION FOR PW2017-09 FOR CRUSHING OF THE CITY'S RECYCLED ASPHALT PILE LOCATED AT 575 EAST BASELINE AVENUE IN AN AMOUNT NOT TO EXCEED \$541,684.24; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE CONTRACT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY; AND

THAT THE FISCAL YEAR 2017-2018 CITY COUNCIL WORK PLAN BE ADOPTED; AND

THAT APPROVAL BE GIVEN TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION AND CITY MANAGER BRYANT POWELL; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE AGREEMENT; AND

THAT APPROVAL BE GIVEN TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION AND CITY ATTORNEY JOEL STERN; AND THAT AUTHORIZATION BE GIVEN FOR THE MAYOR TO SIGN THE AGREEMENT.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [17-254](#) Consideration of acceptance of agenda.
2. [17-255](#) Consideration of approval of minutes of regular meeting of June 6, 2017.
3. [17-236](#) Consideration of approval of award of contract to Sunland Asphalt for repaving work on Baseline Avenue in partial fulfillment of the Fiscal Year 2017-2018 Street Maintenance Plan. The work would be through the Cooperative Purchasing Network Contract No. R5225 for \$547,945.24, including a ten percent contingency.
4. [17-237](#) Consideration of approval of award of contract to Sunland Asphalt for street pavement rehabilitation work in various locations within the city in partial fulfillment of Fiscal Year 2017-2018 Street Maintenance Plan. The work would be through the Cooperative Purchasing Network Contract No. R5225 for \$553,936.74, including a ten percent contingency.
5. [17-238](#) Consideration of approval of award of contract to Cactus Asphalt for street crack sealing work in various locations within the city in partial fulfillment of Fiscal Year 2017-2018 Street Maintenance Plan. The work would be through

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the Maricopa County Cooperative Contract No. 11067-S for \$113,714.11, including a ten percent contingency.

6. [17-240](#) Consideration of approval of award of contract to Viasun Corporation for street maintenance work in various locations within the city, in partial fulfillment of Fiscal Year 2017-2018 Street Maintenance Plan. The work would be through the Pinal County Cooperative Contract No. EC15-008-4 for \$123,215.48, including a ten percent contingency.
7. [17-234](#) Consideration of approval of award of contract to Viasun Corporation for the crushing of the city's recycled asphalt pile located at 575 East Baseline Ave., for a total not to exceed amount of \$541,684.24.
8. [17-262](#) Consideration of adoption of the Fiscal Year 2017-2018 City Council Work Plan.
9. [17-246](#) Consideration of approval of employment agreement between the City of Apache Junction and City Manager Bryant Powell.
10. [17-247](#) Consideration of approval of employment agreement between the City of Apache Junction and City Attorney Joel Stern.

#### **E. AWARDS, PRESENTATIONS AND PROCLAMATIONS**

11. [17-257](#) Proclamation designating May 2017 as Military Appreciation Month and Month of the Military Caregiver.

Mayor Serdy read a proclamation designating May 2017 as Military Appreciation Month and Month of the Military Caregiver. He commented they should continue to do it every day of the year.

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

Councilmember Waldron announced there is a Central Arizona Governments annual meeting coming up on June 23 in Apache Junction here in the council chambers beginning at 2 p.m.

Mayor Serdy announced Allegiant Airlines will be flying to 8 new locations from Gateway Airport. A lot of those cities are winter visitor cities but some are not. It may encourage new people to come here. Four of the cities are National Football League cities and it could encourage visitors to attend the football games against the Cardinals. Because of the increased traffic they will be upping the infrastructure for better baggage and security.

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

12. [17-241](#) City manager's report.

City Manager Bryant Powell commented on the airport expansion,

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the street maintenance plan, programming the infrastructure, the allocation of funds, the Fourth of July celebration, Republic Services donations and support and the nonprofit effort.

Assistant City Manager Matt Busby gave an update on the financial report.

**13. [17-207](#) Presentation by the president and vice president of the Youth Advisory Council on the council's accomplishments in year one.**

Recreation Coordinator J.J. Underwood, Youth Advisory Council Coordinator, introduced the president and vice president of the council.

Ms. Parker Schroeder and Ms. Carissa Smith gave an update on the accomplishments in year one including council bylaws, mission statement, general work plan, voting in officers, naming the new city park, mock car crash, mad scientist night, volunteer opportunities for members and leadership conferences across the state.

Mayor Serdy commented there is room to add some more members if anyone else would like to apply.

## **H. PUBLIC HEARINGS**

**14. [17-256](#) Consideration of application for an acquisition of control and agent change for a series 9 liquor license for Walgreens #4188 located at 55 W. Apache Trail. This is the next step in the process. Council shall hold a public hearing and make a recommendation for 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. 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. There being no further discussion, he called for a motion.

Councilmember Rizzi MOVED THAT THE APPLICATION FOR AN ACQUISITION OF CONTROL AND AGENT CHANGE FOR WALGREENS

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#4188, SUBMITTED BY ANDREA DAHLMAN LEWKOWITZ, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

15. [17-259](#) Consideration of application for an acquisition of control and agent change, series 10 liquor license for Walgreens #06333 located at 2440 S. Ironwood, Apache Junction. 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:** 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. 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. There being no further discussion, he called for a motion.

Councilmember Barker MOVED THAT THE APPLICATION FOR AN ACQUISITION OF CONTROL AND AGENT CHANGE FOR WALGREENS #06333, SUBMITTED BY ANDREA DAHLMAN LEWKOWITZ, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

16. [17-228](#) Public hearing on proposed Apache Junction City Code, Chapter 8 amendments relating to community and civic events (resident notice and appeal).

- Yes:** 5 - Mayor Serdy, Vice Mayor Wilson, Councilmember Evans, Councilmember Rizzi and Councilmember Struble
- No:** 2 - Councilmember Barker and Councilmember Waldron

City Attorney Joel Stern briefed the council on the item.

Mayor Serdy opened the public hearing on the item.

Mr. Jim Duncan, 2745 E. Smoketree Street, Apache Junction, addressed the council. He thanked the city attorney and city staff for all their hard work on the draft proposal, a collaboration of all members. Some of the council may have received emails from those who could not come tonight. They love Apache Junction and their homes. These proposed amendments provide the conduit for communication between the residents affected by an event and the applicant. Current law does not. The vast majority of the residents agree there are a few word changes needed to meet the goals of no additional burden and cost. He provided the council a handout of the minor changes which stated a recommendation to change the first sentence of the second paragraph to read whether the private property instead of whether the selected location, to change the mailing section to be the same as the conditional use permit process mailing section but remove the term certified and use only first class mailings and he would be willing to give a grant to the city in the amount of \$500 for the purpose of removing this expense from any charitable organizations liability and to contact him if additional funds need to be added in future years, and that the definition section include "private property location to include" so that it would read private property location to include a parking lot or a vacant lot which would be similar to the first recommendation. It further clarifies the location definition. A comment was made a few months ago at a council meeting questioning why the residents could not sit down and work this out. The draft proposal shows this becoming part of the process. He believes communication and solution is what the councilmember was referring to. These amendments have been given a great deal of thought by all persons involved, keeping residents in mind while still allowing for events to be approved and take place. He requested the council approve the February 28 version with the suggested word changes.

Ms. Diana LaClair, 2521 E. Windsong, Apache Junction, addressed the council. They support the city, its causes, buying in Apache Junction and believe in the city. She is asking the council for their support and requested they approve the suggested changes to Chapter 8. This will give all residents the right to have their voices heard when the city is

considering an event sponsored by a business organization or individual that could adversely affect the surrounding residents. This document could also provide useful dialogue between the parties.

Ms. Christina Driscoll, 1852 N. Goldfield, Apache Junction, addressed the council. She requested approval of the amendments.

Ms. Cindy Nuttall, 885 N. Vista, Apache Junction, addressed the council. She requested the council approve the code changes. They are not asking to deny events, they just want to be able to express concerns. She loves the city and supports it. If new people move into the city it would be nice for them to know that things will not change after they move in.

Mr. Patrick LeClair, 2521 E. Windsong, Apache Junction, addressed the council. He asked for council support in approving the amendments.

Mr. David Bowling, 1310 N. Starr, Apache Junction, addressed the council. He stated Article 2 Sections 1 and 2 of the Arizona Constitution state that the welfare of the residents need to be considered before adopting any code changes. Unless the goal is to cut out participation by the citizens, the option to do nothing goes off the table. The ones affected by the noise the most are the ones that need to be considered. He requested the council plug the loophole in Chapter 8 that would allow the events to happen without any input. These events were not happening when we moved here. They are standing for the people that are looking to move to the city.

Mr. Frank Schoenbeck, 525 E. Fred, Apache Junction, addressed the council. He stated while they are looking at a general ordinance it is all based on one specific area of complaint. He hesitates to see the city deal with something on such a general manner that is a specific issue. This has been going on for a long time and he does not see what this will accomplish. It will muddy the waters for anybody else wanting to have a special event. The city is looking forward to having a lot of events in the new park. He asked them to seriously consider how much they want to put in the way of moving the town forward. He requested they reconsider this.

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

Councilmember Waldron commented he received a



couple of emails and he believes other councilmembers received them as well. He told them he would read them into the record tonight. The first one is from Bill and Elsa Wallingford at 2055 North Cortez Road: "We regret that we are unable to attend the upcoming council meeting Tuesday night, June 20th, and ask if you could be our voice in the Chapter 8 suggested amendment matter. These changes are needed because the city, with good intentions to make it easier for RV parks to conduct events without a lengthy approval process, made code changes that also opened up loopholes for commercial interests to potentially take advantage of the loopholes in a way unforeseen by the city. These changes close the loophole without penalizing the original intent." And they support the adoption of the draft. Another is from Anne Chapman and he does not have her address. "My name is Anne Chapman and my husband John and I are Apache Junction residents. We are out of town and would have liked to attend the council meeting to speak on the issue of Chapter 8. We are concerned that the rights of homeowners are being overlooked in favor of businesses. I have no problem with businesses making money or streamlining regulations to make it easier for them to do so. However, it needs to be balanced with the rights of homeowners that are affected in the name of making money. There are so many businesses near homes in our city and for them to take priority over the sanctity of even one homeowner's rights is not good for the future of the city." They also support the changes in Chapter 8.

Councilmember Barker asked if there is a current minimum number of days that an application for an event needs to be turned in.

City Clerk Kathleen Connelly asked if she was talking about the liquor license component or just the event.

Councilmember Barker commented the event itself.

City Clerk Kathleen Connelly stated staff would really like 30 days but that rarely happens. Sometimes we find out about an event by reading it in the newspaper.

Councilmember Barker asked how an ordinance like this would impact an event.

City Clerk Kathleen Connelly stated if an organization already has it in the works they have their venue or it could be something a store is doing. We just educate and ask them to contact us next time. If they have any vendors, food trucks or whatever they should please send them our way. We do not stop the event. We have never done that.

City Manager Bryant Powell asked if it would take more time to have another process and find folks. He asked Councilmember Barker if that is what she is looking at.

Councilmember Barker commented she realizes there are holes in what is there. We have been fighting these for the last seven years. It was seven years ago that they started with Harley and had to talk about this. She is trying to find out what kind of education are we going to have to give to the public because we not only have a problem in that particular area, we have had problems in several areas of this nature. She asked what kinds of obstacles they are going to have to jump to do this.

City Clerk Kathleen Connelly stated they will need strict enforcement which she has seen in the codes of other cities. She is not aware of any other city cancelling an event or actually shutting it down but there are communities where they will go out and cite participants. Presuming that the original 30 days is honored, it will absolutely add time to the process at times. She would think they would probably be looking at a minimum of 60 days. Most of ours are nonprofits that do not work according to that schedule. She is separating the nonprofit events from the commercial events but sometimes nonprofits have their event at a commercial site so they are comingling those. She believes they would be looking at a minimum 60 day process. She asked how much enforcement they would want. She asked if they wanted them to go out and cite people. They have never done that before. They have worked with organizations. They can continue that or become really extreme and cite people. She asked if they would cite the promoter, the nonprofit or the participants. The city prosecutor would be very busy.

Councilmember Waldron commented he would never suggest they do strict enforcement. Education is very doable. A lot of the stuff that goes on are annual events. Using the parade, since he is involved in that, they know what the time frame is and what they have to get in. The annual events know that. They know well in advance what they are going to do and what paperwork is needed for the event process. If they look at some of the events, St. George's has a car show every year. They do not have music so they would not fit into this definition anyway. The church on Palo Verde also has a car show. No music. It does not fit on here; they would not need that permit. There is concern over a private parking lot as opposed to a park. Those people that do not have the music would not have this apply to them.

Councilmember Barker commented that is not specified in there.

Councilmember Waldron commented it does.

City Clerk Kathleen Connelly stated it talks about amplifications.

Councilmember Waldron commented that would be for music.

Councilmember Barker commented it goes on with what would create dust, odor, noise, lighting, vibration or proposes the use of amplified music. It does not just say this is a music event. It gives you any event.

Councilmember Waldron commented the car shows do not do any of those. The cars just sit there.

Councilmember Barker commented they do not turn lights on.

Councilmember Waldron commented they do not.

Vice Mayor Wilson asked if they do not rev up their engines at all.

Councilmember Waldron commented it is a show.

Councilmember Struble commented according to that thought process it would be a self-regulated ordinance by the event owner by having to look at it and say since he is going to be doing this he needs to ask the city if he can have the event. Somebody else may look at it and say they are not going to, but then five days before they do the event they decide they are going to have amplified music or they will create some kind of odor. He asked what would be considered an odor. To him, an odor might be different from what someone else thinks is an odor. He asked how this rectifies anything of that nature.

City Clerk Kathleen Connelly stated that is absolutely true. They have had meetings, for example, with nonprofits and the event is still in the formation stage. It may be the first time they have done something. They do not know if they are going to have a band. At the time they are meeting with staff, they say no but they might change their minds. That becomes very complicated.

Councilmember Rizzi commented a car show might not have music but most of them she has been to have an emcee. She asked if someone on a microphone announcing at the car show would be considered the same thing as amplified music or are we now going to have to define those on a microphone.

City Attorney Joel Stern stated the intent is not necessarily just music but any kind of loud disturbances. This language states which has the potential of creating noise, odor, dust, lighting, vibration or proposes the use of amplified music. Most of that is taken from A.R.S. § 13-2917, the general nuisance statute. It is also taken from City Code 10-1-12.

Councilmember Barker asked if they already have that language in there.

City Attorney Joel Stern stated this is for a definition.

Councilmember Barker asked if it is in there but not specifically under entertainment.

City Attorney Joel Stern stated that is correct. This was plucked out of those statutes and they discussed that when they met with the residents. Noise was definitely one of them that had strong opinions. It was one thing they wanted in here.

Councilmember Rizzi asked what happens if a mobile home park wants to put on an event. She asked if they would have to notify all the residents and get their approval.

City Attorney Joel Stern stated if they fit into the definition they would. There was discussion with the residents at one point. There were two different versions that came up. One was the Duncan version and one was the Bowling version. Mr. Bowling had a very interesting attitude about the mobile home parks and so did Mr. Duncan. At one point they all agreed that we probably would not put that in the code for a recommendation for adoption.

Councilmember Rizzi asked if the city would get into a liability issue if someone asks why they get to pick and choose.

City Attorney Joel Stern stated the city council has discretion on many things. He wanted to point out it is not a zoning code. Chapter 8 of the city code is not Volume II, Chapter 1, which is the zoning code. The constitutional protections that were in some of the emails do not apply because it is not involving property rights.

Councilmember Rizzi commented the suggestion is to exempt mobile home parks from this kind of outdoor event.

City Attorney Joel Stern stated as written.

Councilmember Rizzi commented and they would not be a part of the additional process.

City Attorney Joel Stern stated if they fit into the definitions they would have to abide by it also.

Councilmember Rizzi commented they would not be excluded.

City Attorney Joel Stern stated that is correct.

Councilmember Evans asked how many times can they come back for another event and still not know what the procedure is. She can understand the first time that they did not know about the time factor or know for sure what they were going to hold. She asked if the ones that have either put on an event without the knowledge or not knowing what the procedure is make the same mistake the second time or the second time around. She asked if they try to comply with the regulations they were made aware of or do they try to sneak it in.

City Clerk Kathleen Connelly stated sometimes they forget is the best way for her to put it. Sometimes it is because the people who are involved the first time around are not those who are involved for the second time. That is common. She keeps referring to nonprofits but that is primarily who are the inexperienced folks and this is an unfamiliar process to them. We do have those who regularly hold events and they know to check. They go to Al and they go through the Event Wizard. But many do not get it right the first time and, as hard as city staff tries, they do not get it necessarily right the second time either.

Councilmember Evans asked if there are any fines or regulations in the city information they looked at if they did not abide by them.

City Clerk Kathleen Connelly stated it is the same, a misdemeanor, under state law that we use for any code violation. There is at least one city on the west side that does go out and enforce. There is a city up north that does an extensive review process with committee evaluations. The time frame for submitting for some of them is 90 to 180 days in advance. These are not necessarily small events. They could be huge.

Councilmember Evans commented like Lost Dutchman Days.

City Clerk Kathleen Connelly stated that is correct. They may want to close a main street in the community or something like that.

Councilmember Evans asked about citing for misdemeanors, if they have ever fined a nonprofit or a for profit for not following the guidelines.

City Prosecutor Eric Yuva stated it would be a fine and they have never cited any nonprofit or business to his knowledge for this type of issue. He has encountered tax issues but not for putting on events.

Councilmember Evans asked if they have the ability to issue a fine if they do not follow the process. If there is a process in place wherein the first time they screwed up and they did not do something but they have been told about this now. She asked if there is any fine schedule in place.

City Prosecutor Eric Yuva stated he thinks it would be within the city's discretion for a first time issue to fine them or not. We could issue them a warning if they wanted to do that or not. It goes back to something Kathy mentioned which is who they would cite at these places. The participants, the location, the person who owns that or the nonprofit - that is the difficult enforcement issue.

Councilmember Evans commented fine them all.

Mayor Serdy commented the residents up there may not be pleased with him but he agrees with Mr. Schoenbeck. He wants to see more events like other cities seem to have. He thinks that it will draw more people. There are some that would have some noise but it almost feels like a Footloose movie where the whole city had no dancing and music. He does not want to come to that. Music is not a bad thing. It is time to get these events in there. Reba McIntyre will be in town in two weeks. She just announced this. As this is now, how would they scramble and get her to perform. She is going to do it for free. Under these stringent laws they cannot have something like that. They cannot add somebody in a hurry. Sometimes these opportunities pop up. One of the things he is working on is trying to get some of the outlying areas to join the city, one of them being the museum. One of the things that their board is concerned about is having events. As of right now they have 32 events a year. They would like to have even more. Under some of our guidelines they would have to hire personnel just to be doing event applications. He would like to see it made easier without having the bad feelings with the neighbors. Not be obnoxiously loud but make the whole process easier and to

have more events.

Councilmember Struble commented he wanted to clarify something that Councilmember Evans was talking about. Currently we have ordinances on the books we are not enforcing on this issue of events that are being held without proper licenses or stuff like that. We currently have ordinances people are violating.

City Manager Bryant Powell stated they do their very best to educate. The whole definition of an event, to him, is actually a very confusing definition like the gathering at Halloween, trick or treat at a church, all of these things in this beautiful community a lot of people love to do. There are a lot of gatherings, get togethers and crafting and so they try their very best to educate. We are not aware of any for those that meet the criteria of being in the public arena that may affect public safety, health and welfare. They try their best to bring them in and they work through the process. They have a current ordinance or framework they work through and, yes, there are people that are probably having gatherings that they need to get their hands around and do that. But he does not know how many or how often.

Councilmember Waldron commented there are a lot of gatherings that go on, market days for one at the park over here, that would never require a permit. They do not have music or loudspeakers. There are a lot of events that take place that people are free to go to that do not create a disturbance for the neighbors. They have to narrow it down to those events that actually would have music or whatever as opposed to a lot of events that take place and people do not notice.

Councilmember Barker asked if he was asking if they would have to use this process for only specific events and use another process for others.

Councilmember Waldron commented there is no process at hand. They are free to gather there at the farmer's market without any permit.

Councilmember Barker commented they do go through the city for the farmer's market.

City Manager Bryant Powell asked if they do a permit. He is not aware of anything in the city code that asks for a permit. He wanted to clarify that for Councilmember Waldron.

Public Information Officer Al Bravo stated at this point there is no special event permit. There may have

been some different documentation over the years but having taken over this particular part of the city operation he does not issue any kind of special event permit. He does get the application when that happens and it goes through the regular process we always do. We do not issue a special event permit per se.

City Clerk Kathleen Connelly stated at the bottom of one of the pages of the application there is a signature block for various departments to sign off on it. She guesses that could be stretched to mean a permit but in that case they are talking about larger events that could produce traffic control issues, music and those type of things. We have a lot of much smaller, family-oriented, neighborhood events and those are usually the folks they do not hear from. They have their car wash to raise money for somebody who had a family tragedy.

Councilmember Waldron commented they would not be involved in the process.

City Clerk Kathleen Connelly stated she would not think so but it may not be so for my neighbor. This introduces an element of within so many feet of whatever that activity might be. She does not live in a neighborhood where there is a homeowners' association but Bryant does. If they have an event and Bryant does not like it, they could possibly be forced to go through this process. She does not know; it would be a council decision.

City Attorney Joel Stern stated in 1997-1998 he was asked to prepare an event ordinance. It was for the larger one that the city clerk is talking about. There was going to be a security provision and a permit fee. The council at that time decided it was not going to be a good idea for this community at that time. He thinks it was going to be called a special event permit or license.

City Clerk Kathleen Connelly stated it was a permit. While she is doing research on other parts of Chapter 8 she is seeing what other communities do in this area. Some of them are really complicated and others do not deal with the smaller events. There are numerous references to noise, dust, traffic control and those types of things. If they look throughout the state, she would say it is maybe 50-50 between those cities who have a very rigid process and those who have a more liberal process.

Councilmember Rizzi commented Kathy just brought up a really good point. She is going to tattle on herself here. They do car washes all the time on the spur of the moment and a band who comes out and plays in the parking



lot. They literally get a call two days ahead asking if they can come out and do the car wash and accept donations. They are raising money for the kids and the band comes and plays. She brought up a good point. They have the mobile home park behind them. They get into a whole lot of things they call unintended consequences. They do not want to go against residents. They want to help the residents yet at the same time they are trying to make a streamlined process.

Councilmember Waldron commented one of the things the council has talked about over time, whether it is zoning or whatever, is property rights. He thinks one thing they have to keep in mind is the property rights for the people who bought property there when the venue that is now there was not there at the time. He can tell them a story about a man he ran into when his wife was having surgery last Monday. There was only two of them in the waiting room. The other man's wife was also in having surgery. He and his wife own an Apache Junction residence. He lived out behind the Hitching Post but he does not live there now as they moved because he wanted his kids to be able to walk to school. He did not move because of the noise but he complained to him about the noise when he lived there. It was not a cause for him to move. It was a different reason. He disliked it because he could not enjoy his property. He thinks they have to keep that in mind as there are property rights as well. We want businesses and all that kind of stuff. It is too bad this could not have come together a little sooner between all the parties but it did not work. This is a venue they have chosen and if he has heard it once, he has heard it a hundred times on this council that we need to protect property rights. He thinks they need to do that.

Mayor Serdy commented before the Hitching Post there was a Kovac's Korner up there who played music outside.

Councilmember Waldron commented the subdivisions were not there then.

Councilmember Barker commented they cannot make those distinctions. She does not want to fight property rights right now. It is a good point. She is also concerned about time and what is an outdoor entertainment event. They have that it is any civic or community event that takes place outside of a building, in a parking lot, vacant lot or whatever, but it is not in a building and it has the potential to make noise, odor, etc. That could be anything. She asked who would have to go through this application process with this 45 day thing and all of the other parts that go in it. She would be confused were she to have an event. She would presume that if her event was outside she would have to go through this. She asked if that is correct.

City Clerk Kathleen Connelly stated she thinks she would have to ask.

Councilmember Barker asked how they would ascertain whether she was correct or not.

City Clerk Kathleen Connelly stated let her refer again to Al Bravo.

City Manager Bryant Powell stated this is where the rubber meets the road. From a staff perspective he does not know how much Al wants to comment on this. It puts staff in a really interesting, judicial position. He asked if they want the city manager or public information officer to go through an appellate process through a judicial process for neighbor to neighbor issues and who gets to be the judge on that. That is a good question. For example, Superstition Harley over the years has always had events. Over the process of time they have changed their practices. They have stopped doing late night, stopped playing the amplified music towards the neighborhood and have, over time, worked on that. What has not happened over 7 years is they have not been able to get there in this area of the community where we could work with some events at certain periods of time. His worry is when the property owner who has a commercial business and wants to do an event says they have someone coming within three weeks of the event and now they have to go through the process. He asked how that works for the city and we feel pressure as a staff doing it. As Councilmember Struble said, what they end up doing we really do not know. It is about a relationship over time, working as neighbors and working as businesses to try to work that out. He thinks, for example, on the last one, the Blues Festival, he did not hear any complaints. They were concerned about that. He does not know if that did not mean there were not any complaints. It was a Sunday afternoon and it was done by 5 p.m. It just puts staff in a very interesting position. He asked what their next avenue is if we say no and the person really wants it or if they allow for the event to proceed and it did not go well.

City Attorney Joel Stern stated the appeal provision would be classified as an administrative appeal so there is a judicial remedy. But that takes time and by then the event will probably be over.

City Manager Bryant Powell stated they then end up working with them again is probably what would happen.

Councilmember Barker commented she is very concerned about how this process will play out the way it is written here. She feels that staff would be overburdened with

making the decision of whether it meets the criteria or not. She feels like they have the development services director reviewing it and deciding if it is within 500' of the event. We have tried to make that much easier and she sees that. He says there is residential use, not ownership, use within 500' of the event. Now the event person, who has now been told there is residential within 500', they now have to go out and find out all those addresses in order to mail a first class letter unless we make development services come up with all those addresses. She realizes this came up from a specific thing. She goes back a little further than the specific thing and she remembers when this was right in the heart of town and the residences were within 50' of the event. It has been worked through now. There was all kinds of stuff that had to be done. There was a lot of talking and a lot of working out this that did not work, this that did not work and this that did not work. But it was finally worked out and those events are now being held. She thinks they get more complaints from that area on garbage trucks in their alleys than we do on these events. It is primarily because they know when the events are going to occur. They know that because they check the website, they read papers, they find out when those events are going to occur and if they do not want to hear it she does not know what they do but they have not complained. She is very concerned about this process. There is 45 days and within 15 working days the public information officer has to hold a hearing, make a decision and if they do not like the decision they take it to the city manager. God have mercy if the city manager agrees with the public information officer. Then they are right back where they were six months ago when they were threatening to go to court. She understands the problem but she does not see how that solves that problem. She thinks it puts more people in a very bad position.

Councilmember Struble commented he may have misspelled something but he asked if we have a permit. He asked if we charge money for an application.

City Clerk Kathleen Connelly asked if he meant for an event.

Councilmember Struble commented that is correct.

City Clerk Kathleen Connelly stated we do not. If there are vendors involved the vendors have to get a tax license and another license in there. We do not charge anybody to hold an event.

Councilmember Struble commented they had an issue last night that they discussed. This would just be another layer of enforcement that staff would have to monitor

and continuously look for. There is a cost associated with that. If we continuously have issues that are specific to an area of the town and such and we truly want to enforce those codes, then staff and everything else would add cost. But it also sounds like they are going to put this in there and we are not going to enforce, we are just waiting for somebody to complain and then enforce it if there is a big enough complaint. He has an issue with the timing, also. We can talk about education and everyone needing to know but there are a lot of nonprofits out there that do not have the manpower or have had a change over every year with a new president and all that stuff. He asked what kind of liability issues

## **I. OLD BUSINESS**

None.

## **J. NEW BUSINESS**

17. [17-178](#) Presentation, discussion and consideration of the Economic Development Agreement with the Greater Phoenix Economic Council (GPEC) for economic development services for the term of one year and in the amount of \$22,460.00, and appointment of a member of the council as the City of Apache Junction representative to the GPEC Board of Directors. A representative from GPEC will be present to provide information on regionalism in economic development and to answer any questions.

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

**No:** 0

Economic Development Director Janine Solley briefed the council on the item.

Mr. Mitchel Allen, Vice President of Business Development at Greater Phoenix Economic Council, briefed the council on their accomplishments and assistance to the area.

Councilmember Barker asked if he would give his honest opinion as to whether the \$22,000 that our membership costs us is giving us the return as an economic development director for the city would like to see or could that money be better spent elsewhere more effectively.

Economic Development Director Janine Solley stated now that she knows they have the stealth stalking technology in place she thinks that the resources and quality of services at the Greater Phoenix Economic Council provides for this region is, bar none, outstanding. She thinks that they have quality staff. They have amazing research abilities. As

Mitchel stated today we have a 10 to 1 return on our investment. He commented on the businesses located directly into our community. We are actually one of the highest and she attributes that to our proximity to the Greater Phoenix valley. Whether attempting to locate in Gilbert or Mesa, it brings job opportunities for Apache Junction. Tangibly, there are amazing things offered the city such as research. She and Elan just talked to him for over an hour on a potential freestanding industrial down by the current industrial park with the opportunity for a landowner who is looking to do something a little bit creative. We do not have the capacity on our own to say we know there is a demand for smaller lots, what that would look like or who the users would be. Mitchel and his team do. They absolutely tap into those. They are looking to try to locate a small manufacturer of barns in Apache Junction. One of their questions was how many welders are in the region. She did not know the answer so she called Greater Phoenix Economic Council for the answer. They not only told her how many welders there are but also how many are currently going through training that could be available in the coming years. There is data and information that at \$22,000, in her opinion, is a bargain for what she is able to access through what they make available to us. Without that we could never do that on our own in outreach and having companies, internationally and nationally, look at the Greater Phoenix region. Apache Junction could not do that on its own. We are represented on their website. We are part of that group that people think of when they think of Greater Phoenix.

Councilmember Waldron commented she thinks it is a good thing.

Economic Development Director Janine Solley stated absolutely.

Councilmember Rizzi commented Mitchel did a great job on the presentation and kept it flowing well. She asked if they could look again at the businesses that were in the city. She added he does not look old enough to have the background he has. She wants whatever he is having. She just wanted to see the list of the businesses again.

Mr. Mitchel Allen stated that is for the last fiscal year. It does not include June 1 and we are still in our fiscal year. July 1 is when the fiscal year will start. They have located 36 companies. They are not listed on here.

Councilmember Struble asked in his opinion for one or two things the city can do to assist him in helping to bring industry or businesses to the city.

Mr. Mitchel Allen stated honestly, it is investing in the future to create the infrastructure that reduces uncertainty on the client's end. When they are working with clients, they are trying to identify sites quickly because oftentimes they needed the site yesterday. If they do not have water to the site, power or natural gas readily available, the site gets eliminated. The reason he pointed out some of the office and industrial statistics to them specifically around what users are looking for whether it is existing space versus build to suit or net new construction, they are tending to go existing because it is easier and more time efficient. He would recommend identifying some of the corridors and focus on them from an infrastructure standpoint for a lot of the communities that are investing for the first time. Some money in the wastewater treatment facility, water lines and power or natural gas are just some of those general amenities that tend to win projects.

Mayor Serdy asked if they like music.

Mr. Mitchel Allen stated all amenities are welcomed at the businesses, especially if it means their employees have a great living environment.

Councilmember Waldron commented State Farm obviously spent millions of dollars on a building. He does not know what portion of their operation was moved. He asked if he knew what it was that attracted them here and have the gumption to spend that kind of money on that building that would make it worth their while.

Mr. Mitchel Allen stated it was not a project that they worked on as they already had a presence. Part of it was Arizona State University's ability to attract them, part of it was the talent availability through Arizona State University as well, and they are actually seeing that a lot of these larger companies are moving to more regional hubs. They are moving out of colder places south. They are seeing things like General Motors had 3 innovation centers: Phoenix, Atlanta and Dallas. State Farm has a similar model. He does not know if it is the same three states but it would not surprise him if it was Phoenix, Dallas and North Carolina. They are closing down those job areas into one and thus saving money and continuing to grow the operation.

Councilmember Struble commented he wanted to dig deeper into what Apache Junction could do. There is a lot of calls for call centers. We have a lot of empty space in Apache Junction, especially with some larger buildings. He asked what is hindering the city from attracting some of those call centers - such as education of the citizens or too far from a major center.

Mr. Mitchel Allen stated from the call center perspective, part of it is going to be the physical infrastructure but another piece is the anticipated turnover. It is a high turnover type of industry. Once they burn through that first tier of employees there is a question of how else they will get them and how far they are willing to commute. Someone making \$100,000 is willing to commute much farther than someone who is making the minimum wage.

Mayor Serdy commented one of the reasons he was a Greater Phoenix Economic Council fan when he first got on the council was that 10 square miles just south of us and they are now aware of that and are presenting that to something big. It has not sold yet but they could be the catalyst that finds someone that needs that much land instead of just one little box. He thinks it is important to have them working that land for us. One of the requests that he hopes he is aware of, that he heard his announcement about what Allegiant is doing with those 8 other cities. Just 8 miles away we have the 17th busiest airport in the country. We do not utilize that. We need to be pushing we are right next to that. He also heard that right next door we have Boeing. He thinks they are going to be closing another Boeing. Hopefully he will be working on bringing them here because that would mean a lot of jobs. Some of those people will not relocate or else they will relocate here. He thinks those are just some important reasons to be on board. He closed the discussion with no further comments and called for a motion.

Councilmember Rizzi MOVED THAT APPROVAL BE GIVEN TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF APACHE JUNCTION AND GREATER PHOENIX ECONOMIC COUNCIL (GPEC) FOR ECONOMIC DEVELOPMENT SERVICES FOR THE TERM OF ONE YEAR BEGINNING JULY 1, 2017 AND ENDING JUNE 30, 2018 IN THE AMOUNT OF \$22,460,00; THAT AUTHORIZATION BE GIVEN TO THE MAYOR TO SIGN THE AGREEMENT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY; AND THAT COUNCILMEMBER STRUBLE BE APPOINTED AS THE CITY OF APACHE JUNCTION REPRESENTATIVE TO THE GPEC BOARD OF DIRECTORS.

Councilmember Waldron SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

18.    [17-252](#)                   Presentation, discussion and consideration of staff recommendation on the response to the city's notice inviting bid proposals for PW 2017-13 Bulk Fuel in April 2017 in which two proposals were received unresponsive and

unresponsible. Staff is requesting the bid proposals be rejected and recommends re-bidding for bulk fuel.

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

**No:** 0

Management Analyst Heather Hodgman briefed the council on the item.

Councilmember Waldron asked what she meant by the bids being unresponsive and irresponsible.

Management Analyst Heather Hodgman stated the city did a request for proposals for bulk fuel in April. They did something a little different by doing an online reverse auction. Due to that one of the bidders actually pulled out. Because the numbering was not done correctly and the numbers that came in with the second one, staff felt they would get a better price if they went out to re-bid. After speaking to the city attorney, they are coming to the council for approval to reject all bids and go back out to re-bid.

Councilmember Evans asked if Southern Counties was the one who pulled out.

Management Analyst Heather Hodgman stated they were.

Councilmember Evans asked if they are willing to do another request for proposal.

Management Analyst Heather Hodgman stated she knows they are willing to extend for 90 days. She does not know for sure if they will re-bid but they have the opportunity to.

Councilmember Struble asked if they would be doing the same process that was done before and that they did not like.

Management Analyst Heather Hodgman stated they will go back to the way it was done before which is the hard bid, submitting it to the city clerk's office and the review that way. They had wanted to try something a little different.

City Manager Bryant Powell stated they were trying to be bold and creative. They are trying different methodologies and lots of different opportunities to get the best price possible.

Mayor Serdy closed the discussion with no



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further comments and called for a motion.

Councilmember Waldron MOVED THAT THE BID PROPOSALS RECEIVED FOR PW 2017-13 BULK FUEL IN APRIL 2017 BE REJECTED FOR BEING UNRESPONSIVE AND UNRESPONSIBLE AND THAT PW 2017-13 BE RE-BID.

Councilmember Barker SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

19. [17-253](#) Presentation, discussion and consideration of approval of the first amendment for Bulk Fuel PW 2012-04 with Southern Counties Oil Company dba SC Fuels to deliver red dyed diesel, clear diesel, unleaded gasoline and E85 to city facilities for an additional 90 days in order for the city to rebid the contract.

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

**No:** 0

Management Analyst Heather Hodgman briefed the council on the item.

Mayor Serdy called for a motion.

Councilmember Rizzi MOVED THAT APPROVAL BE GIVEN TO THE FIRST AMENDMENT FOR THE CONTRACT FOR PW2012-04 BETWEEN THE CITY OF APACHE JUNCTION AND SOUTHERN COUNTIES OIL COMPANY DBA SC FUELS FOR THE DELIVERY OF RED DYE DIESEL, CLEAR DIESEL, UNLEADED GASOLINE AND E85 TO CITY FACILITIES FOR AN ADDITIONAL 90 DAYS IN ORDER FOR THE CITY TO RE-BID THE CONTRACT; AND THAT AUTHORIZATION BE GIVEN TO THE MAYOR TO SIGN THE AMENDMENT PENDING FINAL APPROVAL AS TO FORM BY THE CITY ATTORNEY.

Councilmember Struble SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

## 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

Councilmember Barker commented the work session of July 3, 2017 and the regular meeting of July 4, 2017 have been cancelled. She MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A WORK SESSION AT 7:00 P.M. BE HELD ON MONDAY, JULY 17, 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, JULY 18, 2017 IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

20. [17-248](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, July 3, 2017 is cancelled. The next Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. will be Monday, July 17, 2017.
21. [17-249](#) Executive Session at 6:00 P.M for Tuesday, July 4, 2017 is cancelled. The next Executive Session at 6:00 P.M. will be Tuesday, July 18, 2017. Other meetings if necessary.

**M. CALL TO PUBLIC**

None.

**N. ADJOURNMENT**

Mayor Serdy called for a motion to adjourn.

Vice Mayor Wilson MOVED TO ADJOURN.

Mayor Serdy adjourned the meeting at 9:03 p.m.