



City of Apache Junction, Arizona

Meeting Minutes City Council Meeting

Meeting location:

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

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

Tuesday, July 18, 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 July 18, 2017, at the Apache Junction City Council Chambers pursuant to the notice required by law.

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

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Councilmember Rizzi gave the Invocation.

Councilmember Waldron 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 Works Director Michael Wever
Development Services Director Larry Kirch

Others Present: Public Information Officer Al Bravo
Captain Arnold Freeman
City Prosecutor Eric Yuva

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 THE RECEIPT OF THE ANNUAL REPORT OF THE APACHE JUNCTION PUBLIC LIBRARY BOARD OF TRUSTEES FOR 2016-2017 FISCAL YEAR BE ACKNOWLEDGED; AND

THAT THE APPOINTMENT OF MICHAEL WEVER TO THE POSITION OF PUBLIC WORKS DIRECTOR BE RATIFIED.

Councilmember Waldron SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [17-273](#) Consideration of acceptance of agenda.
2. [17-276](#) Consideration of approval of minutes of special meeting of June 19, 2017.
3. [17-274](#) Consideration of approval of minutes of regular meeting of June 20, 2017.
4. [17-250](#) Acknowledge receipt of the Annual Report of the Apache Junction Public Library Board of Trustees for 2016-2017 Fiscal Year.
5. [17-251](#) As required by Apache Junction City Code, Volume I, Chapter 3, Administration, Article 3-5, Department of Public Works, § 3-5-1, Department Established, subsection D, the city manager is seeking ratification of Michael Wever for appointment to the position of public works director.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

6. [17-275](#) Presentation of proclamation designating August as Child Support Awareness Month.

Mayor Serdy read a proclamation designating August 2017 as Child Support Awareness Month and presented it to Daren Sweet, Community Initiatives Region Outreach Supervisor of the Division of Child Support Services.

7. [17-282](#) Presentation of proclamation designating August 7, 2017 as National Purple Heart Day.

Mayor Serdy read a proclamation designating August 7, 2017 as National Purple Heart Day and presented it to Mike and Craig of the Veterans of Foreign Wars.

F. ANNOUNCEMENT OF CURRENT EVENTS

Councilmember Struble thanked the staff and volunteers who participated and helped out at the July Fourth Celebration. The Kiwanis had a booth with a number of distinguished citizens allowing people to throw wet sponges at them and he thanked them for that. The fireworks were amazing.

Councilmember Rizzi thanked Republic Services for their partnership for the fireworks show.

Mayor Serdy announced on August 7 across from the focal point and where the flags are there will be a presentation at 6 or 7 p.m. for National Purple Heart Day. They had a small turnout last year and he encouraged people to attend for a larger turnout this year.

Mayor Serdy announced he believes there is going to be a wing cook-off at the Hitching Post involving 7-8 restaurants sometime this Sunday afternoon.

Mayor Serdy announced Apache Junction Idol is taking place at Lucky Strikes every Sunday at 4 p.m. They have already done country, they are doing classic rock now and later old time rock 'n roll. In September they will have a sing off of the winners for the Apache Junction Idol.

Mayor Serdy announced there will be a community meeting in the Royal Palm area tomorrow evening at St. George's Catholic Church at 6:30 p.m. He encouraged other areas who are interested in having a community meeting to contact Al Bravo or himself.

Mayor Serdy announced the Apache Junction Junior Girls Little League team won the state championship. The regionals are in Tucson and they could use money for hotels. If they win there they will go on to Seattle and he encouraged the community to get together and help them.

G. CITY MANAGER'S REPORT

8. [17-266](#) City manager's report.

City Manager Bryant Powell commented on the Junior Girls Little League team, the ratification of Mike Wever, the library report, Chief Kelly being named a board chair for an FBI program and read a letter thanking Officer Ruan for a welfare check.

9. [17-265](#) Presentation, discussion and update with Chris Coyle, General Manager of Republic Services, regarding the landfill, quarterly clean up and composting.

Mr. Chris Coyle, general manager of Republic Services, gave a brief update on the last quarterly clean-up and gave a presentation on composting.

Councilmember Struble asked if the composting is being placed near sewer treatment plants or anything like that in California where there are already air quality issues they have to maintain.

Mr. Chris Coyle stated he could say yes and no. In Imperial there is one off of Interstate 8 right before one turns north heading up into Brawley. That is in the middle of nowhere. There is a composting facility in the Bay area that is across the street from the wastewater treatment facility. That whole area is having odor issues in general with the wastewater treatment plant and the composting. They are pointing fingers at each other. That may be the best location ideally but it is easier to control the odor at a wastewater treatment plant than a composting facility.

Councilmember Struble commented one of the items was diapers.

Mr. Chris Coyle stated that is correct. They remove the plastic from the inner lining which is cotton fiber and human waste. That is organic.

Councilmember Struble asked who removes it.

Mr. Chris Coyle stated it is not him.

Councilmember Struble commented that is one of those jobs where they ask what is your worst job in the world.

Mr. Chris Coyle stated it would be close to the top of the list.

Vice Mayor Wilson commented one of the things he did not mention is that part of the problem is the fire danger. It does heat up and get very warm. There is a possibility of a fire. He asked if California has been experiencing a lot of fires and how they work on that.

Mr. Chris Coyle stated he does not have an answer to that. They have their annual fire in West Phoenix with the attempted compost facility. It is more of a green waste, grinding facility, not a true compost facility. They are not even trying to cook the material and the material gets that hot where it will spontaneously combust. Here they are trying to heat up the material. They want the microbes to get to work and have a nice, warm environment. They are doing that intentionally. With the right management, the right people, they will mitigate those risks as much as possible but there is always that risk.

Councilmember Struble commented when he was growing up they had a little 4'X 4' or 5'X 5' section where they did compost for just their house. You did not want to be downwind from it.

Councilmember Rizzi commented he mentioned something called an air permit. She asked what that is.

Mr. Chris Coyle stated they go through Pinal County and they need an air quality permit for the activities they do onsite. They have to quantify them as to how many engines they have that are portable, that are stationary, they have to have certain dust control measures, they have to determine how many tons they take in each day at the facility, they have to put down an "x" number of gallons of water to ensure they have adequate dust control and those types of things.

Councilmember Rizzi commented he mentioned Tempe has a site where they are giving it away for free. She asked if one has to be a resident.

Mr. Chris Coyle stated he believed so.

Councilmember Barker thanked him for bringing this to the council. She has had a lot of citizens ask her why the city does not have a compost facility here. She wanted people to be able to hear why we do not.

Mr. Chris Coyle stated if she gets any further inquiries she can feel free to send them his way and he will take care of it.

10. [17-271](#) Presentation and discussion on the performance of the Visitor Information Center for Fiscal Year 2016/2017 by Larry Johnson, President/CEO of the Apache Junction Chamber of Commerce and Visitors Center.

Mr. Larry Johnson, president/chief executive officer of the Apache Junction Chamber of Commerce, gave a presentation on the performance of the Visitor Information Center.

Mayor Serdy asked where the window coverings were made.

Mr. Larry Johnson stated they were made at Ray's Printing. He continued with his presentation.

Councilmember Waldron commented the windows look really good.

Mr. Larry Johnson stated Ray's did a wonderful job, not only in the design. They had a local photographer take a lot of those images as well.

Councilmember Waldron commented it makes a big difference for the building.

Councilmember Struble asked if they have any plans for an innovative way to reach out to people outside of the community to get them to the community.

Mr. Larry Johnson stated he does but he does not want to put things out there before he can get some confirmation. One example would be the Renaissance Festival. They are working very closely with them. They realize there is a tremendous volume of consumers that are driving right by our community, often congesting our roadways and discouraging commerce from occurring here. They want to maximize and capitalize on that opportunity. They are at the front door and all but knocking. We need to show them what we have. He reached out to the Renaissance Festival and he will be following up later this week on that communication. Most of the people attending the Renaissance Festival would certainly appreciate a lot of the attractions we have in and around the area but they are not aware of them. He wants to reach out to that group and see if there is any way they can partner with them, get a little more collaboration just he has done with the Apache Trail Attractions group. They can scratch each other's back with advertisements. He would like to get the Renaissance Festival in on that effort so we can support them and they in turn support us. There are other things but he would like to have them hammered out so he can give them the end result.

Councilmember Struble asked if there is anything in the works to help the community get educated about what benefits the winter visitors have for the community.

Mr. Larry Johnson asked if he meant educating the year round residents about the benefits of the winter visitors.

Councilmember Struble commented that is correct.

Mr. Larry Johnson stated that is an ongoing and continuous, usually one on one discussion he has. If one gets into public

conversations they end up with a lot of people who are a little bit less informed. They do not realize the impacts. Without the winter visitors our businesses would not exist. This chamber would not exist. The average member of the community does not understand that. Everything is reliant upon business. That is something he cannot get out on a public forum and say. It has to be a one on one conversation. It is funny because he got a haircut recently and had the very same conversation while there. He gets questioned endlessly and more often it is just about a lack of information or incorrect information. As far as a plan, he wants to state more about the impact of the winter visitors but they need a little more data to actually be able to put it out there. They just keep tooting their own horn and boasting about the impact of the visitors. He does not know how else to do it without turning anyone on defensively.

Mayor Serdy commented the aisles are going to be wider at the new Fry's.

Councilmember Waldron commented he has working out on the Trail with Discount Tire.

Mr. Larry Johnson stated they are reaching out to them. These are things that are in the works. He does not like to get too far ahead of himself but the objective is that project if it moves forward. He has been reaching out to the realtor and he is trying to get into the corporate offices to assure they will have a great neighborly relationship preferably with roadside signage. He would like to have an electronic sign that is on the property.

Councilmember Waldron asked if that is on the Trail.

Mr. Larry Johnson stated it is in proximity. He is hoping they will be embracing that kind of extension of neighborhood involvement. If they get an electronic sign they would not necessarily repeat exactly what the city is doing but they could promote local events and attractions. There are a lot of things they are working on but he would like to come in with finished results of what they would actually be doing rather than just hopes. They are always trying to work for the next best thing and look for opportunities to expose our area in a positive light.

H. PUBLIC HEARINGS

11. [17-281](#) Consideration of application for an interim permit, new license, limited liability company, series 10 liquor license for Shell 1621 located at 1571 W. Apache Trail. 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. The applicant declined to speak to the council. 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 commented he believed this is just going back to the original owner.

City Clerk Kathleen Connelly stated that is correct.

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

Councilmember Rizzi MOVED THAT THE APPLICATION FOR AN INTERIM PERMIT, NEW LICENSE, LIMITED LIABILITY COMPANY, SERIES 10 LIQUOR LICENSE, SUBMITTED BY DEV BASNET, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

- 12.** [17-272](#) Public hearing and consideration on proposed Apache Junction City Code, Vol. I, Chapter 9: Health and Sanitation, Article 9-1, Property Maintenance Standards, oleander prohibition amendments.

Yes: 5 - Councilmember Barker, Councilmember Evans, Councilmember Rizzi, Councilmember Struble and Councilmember Waldron

No: 2 - Mayor Serdy and Vice Mayor Wilson

City Attorney Joel Stern briefed the council on the item.

Councilmember Waldron asked if it would include the whole city as far as oleanders being declared a health hazard.

City Attorney Joel Stern stated it would be declared a public nuisance and, therefore, also a health hazard. Any oleanders would be considered a public nuisance. That would then immunize the city not 100% but if it is in the code, there would be some whereas clauses in the ordinance and probably in the ordinance that declares it a public nuisance. Someone then cannot say the city has diminished their value because the city made them take down a row of oleanders.

Councilmember Rizzi commented a neighbor can file a complaint and it will go from there. It is not a straight out ban, they are just saying they have to maintain them so they are not growing over onto the neighbor's property.

City Attorney Joel Stern stated that is correct. This is a compromise to a total ban. It states no person shall maintain, grow, keep or plant any oleander tree or shrub in the city unless it is maintained, grown, kept or planted in a location or size in which it is not accessible to horses on adjoining properties or in such a manner in which the leaves are contained on the property from which the plant is maintained, grown, kept or planted. Enforcement of the subsection shall be complaint driven. It means they can have oleanders but if they are in such a location that they are a danger to horses, then there would be a violation. There would be some discretion for the code officer to work with the apparent violator and ask them to cut the oleanders or put up a barrier of some kind.

Councilmember Waldron asked if someone could be liable if they have property that has oleanders that is not adjacent to horse property but because of a monsoon storm their leaves ended up on horse property.

City Attorney Joel Stern stated if there is a complaint made to code enforcement they would check into that. They would determine whether that was a possibility.

Vice Mayor Wilson commented he lives in a large lot area and he does have horses. He has gone around his neighborhood and there are people with oleanders with the closest being two lots away from him. They are each 1.25 acre lots. They are on all four sides of him so he is totally surrounded by adjacent properties that have oleanders but they are not right next to him. He has yet to see an oleander leaf on his property since he moved there in 1990. That particular problem, if they have an oleander that is currently growing, is really not an issue because it is not very prevalent. He has one person that has a huge row of oleanders and he can understand that if the neighbor had animals there would be a problem because those leaves are staying fairly close to where

the plant is.

Councilmember Struble asked what happens if city staff tells the landowner to trim it down and they do not if there is a complaint by a neighbor and city staff goes there and determines that maybe it should be trimmed down or something.

City Attorney Joel Stern stated for enforcement there is a civil process. They would probably get an official letter of violation. If they do not abide by that they would then get a civil citation. The first one would be \$250, the second one within 24 months would be \$500 and the third one within 24 months would be \$750. For any Chapter 9 violation after that, the criminal process would take over. He asked Eric to explain how the criminal process would work.

City Prosecutor Eric Yuva stated it would be very similar to the civil process. The code compliance officer sends letters to warn them and give them a deadline to repair it. If they do not then they would see him. If there is a fourth violation he would probably offer a \$1,000 fine after the three previous ones. In the four years he has been here, for any of these Chapter 9 violations, they have had one person who has had three violations within 24 months and the fourth one came to him. It is very rare that it would happen but it could.

Councilmember Rizzi asked if there was anything currently in place that would force a person to maintain a growth, tree, bush, shrub or whatever on their property or they would be in violation.

City Attorney Joel Stern stated there is a limited enforcement section that if something is dead or decaying or in such a state that it is not presentable, there is. In the case of something that is living, thriving and growing over someone's wall, there is not. It is more of a civil dispute between the two neighbors. If it is growing over someone's wall and is in the air space of the adjoining property owner, they can actually cut it. They could get into a lawsuit over that but if it is growing into someone's property it is called a civil trespass. That is the civil violation.

Councilmember Rizzi commented but code compliance would not come out. Say she is a stubborn neighbor and she refuses to trim her tree. It is wrecking Dave's roof or whatever and she refuses to do anything about it. There is no mechanism in place for code compliance to come out and say they are going to take care of it or they will be given a ticket.

City Attorney Joel Stern stated if it is a tree

limb that is intruding on another person's property or it is hitting their roof because the houses are close together, that is a civil dispute. If it is in the air space of the adjoining property owner that property can do self-help and actually cut the tree limb or whatever it is. They can try to charge the other neighbor if they want for the cost of doing it if it is a large tree. That has happened before.

Councilmember Rizzi commented there is no protection for the neighbor that does not want the tree overgrowing onto their property.

City Attorney Joel Stern stated there is not. Most of the cities do not regulate that. They stay out of it. That is government going overboard. That is how some people see it. Other communities maybe not. Some of the high end communities it may be a real issue. There could be stuff in their code section.

Councilmember Rizzi commented in this case, because it has been determined that oleanders are a hazard, there is a possible need to have a little bit more regulation and enforcement in place.

City Attorney Joel Stern stated if they pass it as being proposed in the new recommendation dated July 18, 2017, then yes, there is something that could be done. This would allow for that. Getting a ticket for \$250 does not do that. That is just a ticket. The person still is in violation. They would then get another ticket and now it is \$500. Even at \$750 they could say they are not touching it. They will pay the money and they do not care. At one point the criminal case comes in and in criminal law they can put someone on probation and the term of probation could be for them to get in compliance with this code section or there could actually be jail at that time. That is very rare on one of these types of cases. Even before the council decriminalized a lot of these items back in 2005 or 2006 and they became civil. Even when they were criminalized he did not recall jail time for this kind of thing, not for overgrowth on someone's property.

Councilmember Struble commented there is a complaint made and code compliance goes out there and it is overgrown. The ordinance that is in here states that the oleander will be contained in the property. Coming back to the point about wind, they have received a number of letters in support of this. Some of them actually state it is not common for horses to eat from live bushes. They would get it from leaves that are mixed within other leaves or foliage that is already on the ground or mixed in with the hay. That comes back down to the question of wind. He asked how staff forces the

landowner where the oleanders are to contain them from wind blowing them onto another property.

City Attorney Joel Stern stated he thinks that would be an observation by the code officer whether they believe them and it is dependent on the size of the oleander, where it is located, if there is a wall and whether leaves can get over the wall. It would be a discretionary opinion of the code compliance officer. Perhaps they will come up with some kind of standards for these kinds of violations so that the discretion does not vary from one code compliance officer to another. That is something he has not talked to the director about.

Councilmember Struble commented that would lead to staff having to develop some sort of further code compliance in which they would be able to judge the issue on.

City Attorney Joel Stern stated for their criteria and what the violation would be based on.

Councilmember Struble commented there is probably property out there. He has not surveyed or inspected it all but there is probably property out there that does not have 6' or 5' walls out there. There is just maybe even a post fence separating properties with oleanders growing on one side and not the other. He asked if there is anything in here where the property owner is going to be forced to build a brick wall of any certain size to contain the oleanders.

City Attorney Joel Stern stated if they want to keep it they can do that on their own. The city prosecutor can opine on this, but he cannot imagine the city saying they have to build a 6' wall. He asked if the city prosecutor had a different opinion on that.

City Prosecutor Eric Yuva stated he did not.

City Attorney Joel Stern stated there was a case involving one of the group participants where there was already a law and the offending oleanders were cut down to a certain level after there was a request to do that from him. There is no code that made that person do that. They did it on their own.

Councilmember Struble commented anytime there are ordinances or laws there are always unintended consequences that go along with them and who knows what that might be with this one. The council talked about just limiting this to horses. That is what this did. But what is stopping another group of citizens later on from coming before the council and saying they want to insert laws for dogs or chickens. There is

obviously nothing stopping anyone from doing that. Those are unintended consequences to limiting it to horses with this.

City Attorney Joel Stern stated that would be a policy decision on the council depending on who comes up. If they are convinced that a veterinarian is saying or another expert is saying it is not just horses but other animals in the future or even in this case. They still have both versions. They can do what they want with this language. There are motions in the back on the blue page. They can agree on the first version, they can agree on this version or with changes or they can basically take no action on this and table it.

Mayor Serdy commented some of those scenarios might be pretty farfetched other than llamas. They are like horses.

Councilmember Barker commented they had an interesting windstorm last night. It blew pretty hard. She lives across the street from a neighbor who has a pine tree in their backyard. It is way back there. She spent part of the afternoon raking pine needles out of her pool. They cannot control the wind. Those little leaves from oleanders are so lightweight they can go for blocks. It is ludicrous. This states only horses. She feels very strongly that this is a back door method to avoid Proposition 207 because horses are only in a specifically zoned area. This particular thing is talking about horses which means it is only talking about that particular zoned area. To her it is a way to try to get away from 207.

Mayor Serdy opened the public hearing on the item.

Ms. Cathy Diroff, 860 N. Wickiup, Apache Junction, addressed the council. She thanked staff for all their work on this item, especially the city attorney. She stated she and her husband first started coming out here 18 years ago to ride their horses and decided then to move here when they retired. They have now moved here and they would like some consideration on protecting the horses. This can also be a danger to dogs and children. She commented on the red maple that is hazardous to horses where she lived in Michigan. Now she found out about the oleanders and other poisonous plants out here. She likes the hitching rails, water troughs, bars and restaurants that have hitching posts and they ride over to the library all the time to use their hitching post. It is a nice thing.

Ms. Jackie Cross, 1018 N. Acacia, Apache Junction, addressed the council to read a letter from Tom and

Doreen Colbert, winter visitors from Canada, requesting the prevention of oleanders in Apache Junction.

Mr. Darryl Cross, 1018 N. Acacia, Apache Junction, addressed the council. He stated he was at the property referred to earlier by the city attorney where they had cut back their oleanders and with all the wind we have had he could not find any oleander leaves on the horse property. A barrier does work. He fully supports the change. People have suggested it may need a grandfather clause. He suggested the investigating code compliance officer reasonably determine who was there first and no action should be taken if the oleanders were there first. This was generated because someone had ill intent and wanted a neighbor's horses moved. They planted the oleanders to force the horses to be moved. The horse owner had two choices: fight it or leave the horses there with the possibility of a horse eating a leaf and getting sick or dying. He asked if under that situation a horse owner could be charged with animal abuse. Apache Junction is known nationally as being a horse friendly community. People come from Canada. He contrasted the amount of money brought in by horse people and the economic benefit of oleanders. The horse people generate a ton of revenue for the city. They are asking for help. He requested they give them some consideration.

Mayor Serdy asked where the text he presented is from.

City Attorney Joel Stern asked if he meant the text on the screen.

Mayor Serdy commented that is correct.

City Attorney Joel Stern stated Mr. Cross is the one who created it.

Mayor Serdy commented if any motion is made that clause will not be in it.

City Attorney Joel Stern stated it will not unless they want to put it in the motion. The direction to staff would be for him to bring back an ordinance. Right now they just have a draft.

Mr. Jeff Watson, 2114 N. Warner Drive, Apache Junction, addressed the council. He stated he keeps hearing about the wind issue, but they also have a dust issue. The state says if we cannot keep the dust on our property they are liable for the dust going everywhere. The neighbor here plants oleanders. It is monsoon season. He goes outside and sprays Roundup. He asked if he is legally responsible for the Roundup

he sprayed killing the neighbor's plants. The wind did it. It is not his fault. They are just asking for help and control in getting the neighbors to talk to each other and help each other. They have ordinances against light, it cannot be shone into his neighbor's home all night long. He cannot have his radio playing all night long. He thinks they should have something to control the plants.

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

Councilmember Rizzi commented she is really torn on this is like Chip. She lives on 1.25 acres and she has a couple of burros and they roam the property. Her neighbor is a horse owner and there is a part of their fence that is oleanders. Before they were aware oleanders could make them sick they really did not know and it has never been an issue. She thinks the council wants to be supportive but if you have a neighbor that has an issue and there is a neighbor that intentionally tries to bring harm to an animal, she is torn in that. She and her neighbor have a partial wall with oleanders and the animals have never been sick. They have never eaten anything and it has never been an issue. This is a tough one. Jeff commented they are getting in the middle of a neighbor dispute, we change an ordinance based on that to try to help a group of people or an individual and we end up with unintended consequences they do not find out about until further down the road. Sometimes that really messes things up. So this is a tough one. She understands where the horse owners are coming from, she understands how important the animals are and they have these large animals themselves.

Councilmember Waldron commented he put this out on the website next door and he received a lot of comments pro and con. The one that struck him the most was a lady who wrote that she and her husband have dogs and kids. A new neighbor moved in and planted oleanders on the fence between them. She was very concerned about the toxicity of them. She went over and talked to the neighbor and the neighbor pulled them up and took them back to whatever store they got them from and planted something else. That was a neighborhood dispute resolved between the two neighbors. That is what he sees this as - a neighborhood dispute. It sounds like, from what Mr. Cross said, that the problem has been resolved. He cut it down and the wind did not bring any leaves over. The barrier worked. It seems to him this has been resolved. He does not see why they need to put this into an ordinance.

Councilmember Evans commented first of all she does not think there is anyone here that does not understand the

importance of horses in our community. She was a past horse owner. After her husband passed away she had to sell her horses. We all know how heartbreaking that is. Not just to have one die, but to have to sell them. She still owns 5 acres in the horse area. If it is poisonous, it is poisonous. For them to limit poisonous plants to one particular area for one particular animal is not what they are here for. They are here for the entire community, not just one segment who get to come before us and present something. They have to be here for everybody. To have this so limited to horses only is inadequate. It does not serve any purpose. She does not ever want to put city staff in the middle of a dispute because that is what brought us here to begin with, a neighbor dispute. There are other avenues to settle that and it has to be neighbor to neighbor. This is just for one instance. There are a lot of people in the horse area that do not have horses. They just want to live on a large lot, have their plants and have their privacy. Someone is there and they have their large acreage landscaped, the acreage next to them is vacant and a horse owner moves in. She asked how he could possibly ask them, when they have an investment made, they put in their plants, they are enjoying it, and they could notify them that by the way they may not have known oleanders are poisonous to horses and could they please keep them trimmed up. She is all for in the landscape guidelines to have a warning. She would not just list oleanders, she would list all ten that are on the website that are poisonous. To only do oleanders is only one-tenth of the job. She asked why they should go through all of this and not name all of the plants. There is a long list of them and it goes back to all of these plants being readily sold in Walmart and nurseries throughout the state, Apache Junction and surrounding communities. She asked if they should notify everyone to stop selling them. It is definitely a possibility. For the city to have an ordinance banning them she does not think is the correct avenue. In our landscape design guidelines she is all for a warning, a huge warning, and listing all ten plants that are the most common poisonous plants. She knows there are more than ten but these are the most poisonous to horses, dogs, cats and most importantly, humans. This does not fit a neighbor to neighbor problem. She trims her neighbor's bougainvillea that grows over the fence that was blowing into her swimming pool. He was good with that. You work with people. Sick horses happen for a lot of reasons. She lost a horse because it got into her chicken feed. A lot of things can happen but because my neighbor has oleanders and she says her horse must have gotten into the oleanders. Then it becomes a witch hunt as to who has the oleanders around here. She asked how they could expect to put city staff in the middle of that. It would be an impossibility. The council has to worry about an entire city, not just the horse community or areas that currently do not have horses that are allowed to have horses.

They have to look at the whole city and not just one facet of it.

Councilmember Struble commented he would like to reiterate what has already been said. He grew up in South Dakota and rode horses all his life. He owns a property within the central part of the city and he obviously cannot have a horse in there legally. But he agrees with all that is being said here. The horse owners and what they bring to the city, there is really no way to measure the economic benefit that it brings to us. Along with the other segments of our city, of everything that you want to talk about, the motorcyclists, the winter visitors, the business owners, the people who own houses and everything that goes along with it. To reiterate what Councilmember Evans said, this is just too vague and it leaves too much for interpretation and possible conflict with city staff when they might rule something other than what one of the neighbors wants. He does not think this is appropriate. A couple of weeks ago or a month ago they had another issue where they had to decide if they wanted to rule on just a specific area of town and this is the same thing. The council is there to look out for the benefit of the city, the people who are responsible for it, not just one individual or a small area.

Vice Mayor Wilson commented on the aspects of the economic impact of the winter visitors and their horses, stating he talked to three businesses in the community to see what the impact or increase in sales that occurs in the winter months versus the summertime and those here year round. This is strictly in areas where they are doing equestrian sales, not necessarily sales of animals but sales of supplies, what is taxed, whether it is feed, and it goes anywhere from a high of 42% in the winter time versus summertime to the lowest which was 26%. One can see the impact the winter visitors have that have horses that come down to our community. It is an attraction. There are a lot of people that come. As they all know, he is the president of the Arizona Horse Council and Apache Junction is known for being horse-friendly. He thinks more than anything else the people that have the horses would like some reassurance that the community wants to keep it that way. They have seen an increase in the sales of property in the community where horses have not been brought onto the property. They have seen a large number of people that still want to come and visit the area. To make a proper balance on this he believes the horse community is wanting to have a reassurance that if there is a problem like this they will have somewhere to turn to where the issue can be addressed. That is what they are looking for. They want someone to assist them in addressing the problem because they are fearful it will grow. That is what they are asking for.

Mayor Serdy commented he sees it like Chip

does. He does not see staff spending a lot of time with this. It is just a mechanism that if there is a problem there is a way to handle it. They have hundreds and hundreds of people asking them for help. It is also their job to help people. The people that live in urban areas like him it would not affect at all. He thinks they can name it by name. Mulberries are on here but they are not poisonous. They may give someone a runny nose and they are banned. This is something that is deadly and is not. He closed the discussion with no further comments and called for a motion.

Vice Mayor Wilson MOVED TO MOVE FORWARD WITH THE JULY 18 TO INCLUDE WHAT MR. CROSS HAS PRESENTED VERSION TO AN ORDINANCE PREPARATION WITH A PUBLIC HEARING ON AUGUST 1, 2017.

Councilmember Barker asked for a clarification. He said to include what Mr. Cross included. She asked if he was speaking of the grandfather thing.

Vice Mayor Wilson commented that is correct.
Mayor Serdy SECONDED THE MOTION.

VOTE: 2-5 (Councilmembers Struble, Rizzi, Evans, Barker and Waldron voted in opposition.)

(Councilmember Rizzi commented during the vote that as much as she supports the horse community, she is part of that herself, the reason she is voting this way is for the unintended consequences. They have had several cases come before them recently and it has turned into a mess. She loves the horse community, she is a part of it, but this time she feels bad but she has to say no.)

(Councilmember Evans commented during the vote that she has to say no and she also recommends they start with the state legislature to put a ban on selling those plants. It is a better place to go.)

(Councilmember Barker commented during the vote that she wishes absolutely no harm to any animal, horses or any other, but she does not believe this is the answer.)

The motion failed.

Mayor Serdy called for another motion.

Councilmember Evans MOVED TO TAKE NO FURTHER ACTION.

Councilmember Waldron SECONDED THE MOTION.

VOTE: 5-2 (Mayor Serdy and Vice Mayor Wilson voted in opposition.)

(Councilmember Waldron commented during the vote he thinks Councilmember Evans had the idea that they need to go to the legislature with this and that would be a place to start.)

The motion carried.

I. OLD BUSINESS

None.

J. NEW BUSINESS

None.

K. COUNCIL DIRECTION TO STAFF

13. [17-280](#) Direction to staff on proposed changes to City Code Chapter 8 Business and City Tax Code in areas of licensing, vendors, business license fees, tax license fees and health department approval for temporary food and beverage vendors; directing staff to provide a 60 day notice of the proposed changes and fees on the city's website as required by law and bring back the changes in ordinance form for discussion at a work session followed by a public hearing at a council meeting. This item will allow staff to proceed with making these changes in order to have them in place for upcoming fall and winter events and establish fees in the time frames required by state law and the Arizona Department of Revenue.

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.

Councilmember Waldron asked if they were to go with this one option for the fees there are some blanks in there.

City Clerk Kathleen Connelly stated they would need to fill those in. If they do something different from what was discussed last night and she has to go back and recalculate the revenue loss and gain, she will not make the Thursday deadline for getting this on the website in which case they are looking further down the road.

Mayor Serdy closed the discussion and called for a motion.

Councilmember Barker MOVED THAT THE FOLLOWING DIRECTION BE GIVEN TO STAFF REGARDING PROPOSED CHANGES TO CITY CODE CHAPTER 8 BUSINESS AND CITY TAX CODE IN THE AREAS OF LICENSING, VENDORS, BUSINESS LICENSE FEES, TAX LICENSE FEES AND HEALTH DEPARTMENT APPROVAL FOR TEMPORARY FOOD AND BEVERAGE VENDORS: THAT STAFF PROCEED WITH MAKING THE CHANGES TO CITY CODE CHAPTER 8 AND THE CITY TAX CODE AS OUTLINED IN THE CITY CLERK'S PRESENTATIONS OF JULY 17, 2017 AND JULY 18, 2017; I FURTHER MOVE THAT THE FEE FOR THE CITY TRANSACTION PRIVILEGE TAX LICENSE BE CHANGED TO \$2.00 AND THAT WE ADD A BUSINESS LICENSE FEE OF \$50.00;

I FURTHER MOVE THAT NOTIFICATION OF THE PROPOSED FEES AND CHARGES BE POSTED ON THE CITY WEBSITE IN ACCORDANCE WITH A.R.S. §9-499.15 AND THAT A PUBLIC HEARING ON THESE CODE CHANGES, FEES AND CHARGES BE SCHEDULED FOR THE COUNCIL MEETING OF SEPTEMBER 19, 2017.

Councilmember Rizzi SECONDED THE MOTION.

Councilmember Struble commented they currently have a business license fee of \$50 for non-retail. He asked if this has to mention that we are.

City Clerk Kathleen Connelly stated it is because of the reference to last night's presentation. That is what she took that as meaning.

VOTE: Unanimous.

The motion carried.

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

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

No: 0

Councilmember Waldron MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A WORK SESSION AT 7:00 P.M. BE HELD ON MONDAY, JULY 31, 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, AUGUST 1, 2017, IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

14. [17-267](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, July 31, 2017.
15. [17-268](#) Executive Session at 6:00 P.M for Tuesday, August 1, 2017. Other meetings if necessary.

M. CALL TO PUBLIC

Ms. Tess Nesser, 1511 S. Cactus, Apache Junction, addressed the council regarding the Boys and Girls Club annual Bowl-a-Thon on August 12.

N. ADJOURNMENT

Mayor Serdy adjourned the meeting at 9:48 p.m.